SENATE

MONDAY, NOVEMBER 8, 1954

On this day, Monday, November 8, 1954, under the terms of the order entered on August 20, 1954, the Senate met in special session in its Chamber in the Capitol at 12 o'clock meridian.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

O Thou all-knowing and all-loving God, who in such a time as this hast called Thy servants gathered here to the ministry of high service in public affairs: We come with tender thoughts concerning those who so often across fruitful years have answered to their names in this Chamber, but who now answer not, however we may call. This hour we see their faces and forms, as they are kept in memory—one coming from the West, with all its pioneer daring, and one from the South, with all its hallowed traditions; both in this body serving well their States and their Nation, in perplexing times, before suddenly they disappeared through the portal of death to enter a larger room of service in the Father's many-mansioned house. And so at the beginning of this session, with the busy bustle of activity about us, we are reminded that swift to its close ebbs out life's little day.

Now we pray that in all the deliberations here begun Thou wilt save us from pride of opinion, from intolerance and prejudice, and from lightly ascending any throne of judgment. Make us humble disciples of Thy truth, be it in Thy book or on the tongue of man, or in the mystery of silence. Send us humility for our arrogance, wonder for our dullness, and inspiration to conquer the inertia of our spirits. Give us grace to shun everything that cannot bear the eternal light nor live in the eternal love. We ask it in the dear Redeemer's name. Amen.

The VICE PRESIDENT (RICHARD M. NIXON, of California). The Chair is informed that pursuant to the order of the Senate of August 20, 1954, the majority and minority leaders instructed the Secretary of the Senate to notify the Members of the Senate to reassemble on the 8th day of November 1954, and that on the 25th day of September 1954 the Secretary communicated with each Member of the Senate. The order of August 20, 1954, and the communication from the Secretary will be printed in the RECORD.

The order of August 20, 1954, is as follows:

Ordered, That when the Senate adjourns it stand adjourned until the 5th day after the Senators are notified to reassemble by the majority and minority leaders of the Senate, acting jointly, whenever in their opinion the public business of the Senate so requires.

The communication addressed by the Secretary to the Members of the Senate is as follows:

SEPTEMBER 25, 1954.

Pursuant to Senate order of August 20, 1954, requiring a 5-day notice before the Senate convenes, the majority and minority leaders, acting jointly, have instructed me to advise you that the Senate will reassemble at noon on November 8, 1954.

J. MARK TRICE,
Secretary of the Senate.

THE JOURNAL

On request of Mr. KNOWLAND, and by unanimous consent, the reading of the Journal of the proceedings of Friday, August 20, 1954, was dispensed with.

ENROLLED BILLS PRESENTED AFTER ADJOURNMENT

Subsequent to the adjournment of the Senate on August 20, 1954, the Secretary of the Senate reported that he presented to the President of the United States the following enrolled bills:

On August 21, 1954:

S. 264. An act to provide for the conveyance of certain land in the State of Maryland to the Disney-Bell Post 66 of the American Legion, Bowie, Md.;

S. 738. An act for the relief of Maria Busa;

S. 906. An act to establish the finality of contracts between the Government and common carriers of passengers and freight subject to the Interstate Commerce Act;

S. 1259. An act for the relief of Anastasia Kondylis;

S. 1504. An act for the relief of the estate of Rev. Pang Wha Il;

S. 1604. An act for the relief of Margot Herta Matulewitz;

S. 1605. An act for the relief of James Arthur Cimino and Joan Cimino;

S. 1687. An act for the relief of T. C. Elliott;

S. 1873. An act for the relief of Ursula Wilke and Mike Mario Wilke;

S. 2033. An act relating to the labeling of packages containing foreign-produced trout sold in the United States, and requiring certain information to appear in public eating places serving such trout;

S. 2068. An act for the relief of Francesco Marinelli;

S. 2074. An act for the relief of certain Basque sheepherders;

S. 2301. An act for the relief of Katherina Picerkona and her minor son, Helmut;

S. 2316. An act for the relief of the Birmingham Iron Works, Inc.;

S. 2345. An act for the relief of Yun Tai Miao and his wife, Chao Pei Tsang Miao;

S. 2366. An act for the relief of Ito Yukiko;

S. 2618. An act for the relief of Ertogroul Osman;

S. 2636. An act for the relief of Arturo Rodriguez Diaz;

S. 2639. An act for the relief of Etsuko Tamaki (Shimizu);

S. 2640. An act for the relief of Esther Joanne Potter;

S. 2649. An act for the relief of Chaya Frangles;

S. 2731. An act for the relief of Jean Cantalini;

S. 2789. An act for the relief of Gianni Bernardis;

S. 2842. An act for the relief of Dr. Felix de Piniès;

S. 2849. An act for the relief of Elisa-Pompea Roppo (Elisa-Pompea Cardone);

S. 2879. An act for the relief of Peter Julian Newbery and Prudence Ellen Newbery;

S. 2884. An act for the relief of Sister Anna Scrinzi, Sister Giuliana Paladini, Sister Iolanda Mazzocchi, and Sister Giuseppina Zanchetta;

S. 2887. An act for the relief of Hon Cheun Kwan;

S. 2893. An act for the relief of Seraphina Papgeorgiou;

S. 2941. An act for the relief of Kim Kwang Suk and Kim Woo Shik;

S. 2945. An act for the relief of Eulalio Rodriguez Vargas;

S. 2954. An act for the relief of Christine Thum;

S. 2993. An act for the relief of Ruth Wehrhan;

S. 3056. An act for the relief of S. Sgt. Silvestre E. Castillo;

S. 3058. An act for the relief of certain nationals of Italy;

S. 3108. An act to modify the act of October 8, 1940 (54 Stat. 1020), and the act of July 24, 1947 (61 Stat. 418), with respect to the recoupment of certain public school construction costs in Minnesota;

S. 3112. An act for the relief of Emiko Watanabe;

S. 3138. An act for the relief of Wakako Niimi and her minor child, Katherine;

S. 3145. An act for the relief of Bonita Lee Simpson;

S. 3148. An act for the relief of Francesco Pugliese;

S. 3221. An act for the relief of Ingeborg Otto;

S. 3276. An act for the relief of Cleophat Robert Joseph Caron;

S. 3404. An act for the relief of Anni Stroee Jacobsen;

S. 3447. An act to amend the Internal Revenue Code to permit the filling of oral prescriptions for certain drugs, and for other purposes;

S. 3485. An act for the relief of Liselotta Kunze;

S. 3577. An act for the relief of Milos Knezevich;

S. 3586. An act for the relief of Mrs. Hildegard Simon Walley;

S. 3601. An act to provide that the Secretary of Agriculture is authorized to extend until not later than October 18, 1962, certain timber rights and necessary ingress and egress, and for other purposes;

S. 3625. An act for the relief of Mrs. Juana Padilla de Caballero (Mrs. Juana Padilla de Ontiveros);

S. 3652, An act for the relief of Francis Timothy Mary Hodgson (formerly Victor Charles Joyce);

S. 3840. An act for the relief of Klyce Motors, Inc.; and

S. 3844. An act to provide for a reciprocal and more effective remedy for certain claims arising out of the acts of military personnel and to authorize the pro rata sharing of the cost of such claims with foreign nations, and for other purposes.

On August 25, 1954:

S. 2862. An act to provide relief for the sheep-raising industry by making special nonquota immigrant visas available to certain skilled alien sheepherders;

S. 3868. An act authorizing the payment of salary to any individual given a recess appointment as Comptroller General of the United States before the beginning of the 84th Congress; and

S. J. Res. 173. Joint resolution to authorize the President to proclaim the week of November 28, 1954, through December 4, 1954, as "National Salvation Army Week."

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED AFTER ADJOURNMENT

Pursuant to Senate Concurrent Resolution 109, adopted August 20, 1954, the following enrolled bills and joint resolutions were signed by the Speaker of the House of Representatives and the President pro tempore of the Senate subsequent to the adjournment of the Congress:

S. 2862. An act to provide relief for the sheep-raising industry by making special

nonquota immigrant visas available to certain skilled alien sheepherders;

S. 3868. An act authorizing the payment of salary to any individual given a recess appointment as Comptroller General of the United States before the beginning of the 84th Congress;

H. R. 951. An act for the relief of the Trust Association of H. Kempner;

H. R. 1107. An act for the relief of the J. A. Vance Co.;

H. R. 1254. An act to provide authorization for certain uses of public lands;

H. R. 2032. An act for the relief of Clarence D. Newland;

H. R. 2233. An act to provide for the acquisition of lands by the United States required for the reservoir created by the construction of Oahe Dam on the Missouri River and for rehabilitation of the Indians of the Cheyenne River Sioux Reservation, S. Dak., and for other purposes;

H. R. 2235. An act to authorize the Secretary of the Interior to construct the Santa Maria project, Southern Pacific Basin, Calif.;

H. R. 2236. An act to provide for a Commission to regulate the public transportation of passengers by motor vehicle and street railroad within the metropolitan area of Washington, D. C., and for the establishment of a metropolitan Washington Commission;

H. R. 2876. An act for the relief of Leo F. Pinder;

H. R. 3300. An act to authorize the State of Illinois and the Sanitary District of Chicago, under the direction of the Secretary of the Army, to help control the lake level of Lake Michigan by diverting water from Lake Michigan into the Illinois waterway;

H. R. 4340. An act for the relief of Charles J. Abarnem and others;

H. R. 4638. An act for the relief of David W. Wallace;

H. R. 5420. An act to amend section 161, title 35, United States Code, relating to the patenting of plants;

H. R. 6451. An act to provide for the conveyance of certain public lands in Utah to the occupants of the land;

H. R. 6573. An act to provide for the promotion, precedence, constructive credit, distribution, retention, and elimination of officers of the Reserve components of the Armed Forces of the United States, and for other purposes;

H. R. 6616. An act to amend title 17, United States Code, entitled "Copyrights";

H. R. 6808. An act for the relief of Col. Samuel J. Adams, and others;

H. R. 7130. An act to amend the Immigration and Nationality Act to provide for the loss of nationality of persons convicted of certain crimes;

H. R. 7774. An act to increase the rates of compensation of classified, postal, and other employees of the Government, and for other purposes;

H. R. 7840. An act to amend the Railroad Retirement Act, the Railroad Retirement Tax Act, and the Railroad Unemployment Insurance Act;

H. R. 7886. An act for the relief of Mrs. Cecil Norton Broy;

H. R. 8606. An act for the relief of Neil C. Hemmer and Mildred Hemmer;

H. R. 9366. An act to amend the Social Security Act and the Internal Revenue Code so as to extend coverage under the old-age and survivors insurance program, increase the benefits payable thereunder, preserve the insurance rights of disabled individuals, and increase the amount of earnings permitted without loss of benefits, and for other purposes;

H. R. 9580. An act to revise and extend the laws relating to espionage and sabotage, and for other purposes;

H. R. 9680. An act to provide for greater stability in agriculture; to augment the marketing and disposal of agricultural products; and for other purposes;

H. R. 9728. An act to revise, codify, and enact into law, title 21 of the United States Code, entitled "Food, Drugs, and Cosmetics";

H. R. 9729. An act to revise, codify, and enact into law title 13 of the United States Code, entitled "Census";

H. R. 9730. An act to amend various statutes and certain titles of the United States Code, for the purpose of correcting obsolete references, and for other purposes;

H. R. 9859. An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes;

H. R. 9987. An act to amend certain provisions of title XI of the Merchant Marine Act, 1936, as amended, to facilitate private financing of new ship construction, and for other purposes;

H. R. 9988. An act for the relief of the Federal Republic of Germany;

H. R. 10051. An act making appropriations for mutual security for the fiscal year ending June 30, 1955, and for other purposes;

H. R. 10187. An act to amend the Federal Property and Administrative Services Act of 1949, as amended, to provide for the payment of appraisers', auctioneers', and brokers' fees from the proceeds of disposal of Government surplus real property, and for other purposes;

S. J. Res. 173. Joint resolution to authorize the President to proclaim the week of November 28, 1954, through December 4, 1954, as "National Salvation Army Week"; and

H. J. Res. 565. Joint resolution to amend the joint resolution providing for the membership of the United States in the Pan American Institute of Geography and History and authorize appropriations therefor.

REPORT ON NAVAL PROCUREMENT OF TUGBOATS BY SELECT COMMITTEE ON SMALL BUSINESS

Mr. THYE, from the Select Committee on Small Business, pursuant to the order of the Senate of August 19, 1954, submitted on August 24, 1954, a report (No. 2506) on naval procurement of tugboats; which was printed.

REPORT ON INVESTIGATION INVOLVING THE SECRETARY OF THE ARMY AND SENATOR JOSEPH R. McCARTHY, ET AL.

Mr. MUNDT, from the Committee on Government Operations, pursuant to the orders of the Senate of August 17 and August 19, 1954, submitted, on August 30, 1954, a report (No. 2507), together with a summary and finding of fact on the part of the minority members of the committee, and individual views of Mr. DIRKSEN and Mr. POTTER, relating to charges and countercharges involving the Secretary of the Army Robert T. Stevens, John G. Adams, H. Struve Hensel, and Senator Joseph R. McCarthy, Roy M. Cohn, and Francis P. Carr.

APPROVAL OF SENATE BILLS AND JOINT RESOLUTIONS AFTER ADJOURNMENT

The President of the United States, subsequent to the adjournment of the Senate, notified the Secretary of the Senate that he had approved and signed the following acts and joint resolutions:

On August 20, 1954:

S. 16. An act to permit the compelling of testimony under certain conditions and to grant immunity from prosecution in connection therewith;

S. 3546. An act to provide an immediate program for the modernization and improvement of such merchant-type vessels in the reserve fleet as are necessary for national defense;

S. 3655. An act to provide that the Metropolitan Police force shall keep arrest books which are open to public inspection; and

S. J. Res. 140. Joint resolution to establish a commission for the celebration of the 200th anniversary of the birth of Alexander Hamilton.

On August 21, 1954:

S. 1845. An act for the relief of Dr. Ian Yung-cheng Hu.

On August 23, 1954:

S. 232. An act for the relief of Hugo Kern;

S. 546. An act to authorize payment for losses sustained by owners of wells in the vicinity of Cold Brook Dam by reason of the lowering of the level of water in such wells as a result of the construction of Cold Brook Dam;

S. 1184. An act to authorize relief of authorized certifying officers from exceptions taken to payments pertaining to terminated war agencies in liquidation by the Department of State;

S. 1225. An act for the relief of Brunhilde Walburga Golomb Hartsworm;

S. 1308. An act for the relief of Leonard Hungerford;

S. 1904. An act for the relief of Ottilie Theresa Workmann;

S. 1959. An act for the relief of Mrs. Annemarie Namias;

S. 2420. An act to amend section 32 of the Trading With the Enemy Act, as amended;

S. 2744. An act to provide for the termination of Federal supervision over the property of the Alabama and Coushatta Tribes of Indians of Texas, and the individual members thereof; and for other purposes;

S. 2958. An act for the relief of Ida Reissmuller and Johnny Damon Eugene Reissmuller;

S. 3028. An act to require the Postmaster General to reimburse postmasters of discontinued post offices for equipment owned by the postmaster;

S. 3085. An act for the relief of Mrs. Helen Stryk;

S. 3379. An act to amend section 4 of the Flammable Fabrics Act, with respect to standards of flammability in the case of certain textiles;

S. 3487. An act to authorize the Central Bank for Cooperatives and the regional banks for cooperatives to issue consolidated debentures, and for other purposes; and

S. 3816. An act to authorize the replacement of certain Government-owned utility facilities at Glacier National Park, Mont., and Grand Canyon National Park, Ariz.

On August 24, 1954:

S. 3706. An act to outlaw the Communist Party, to prohibit members of Communist organizations from serving in certain representative capacities, and for other purposes.

On August 26, 1954:

S. 2456. An act for the relief of Martin Genuth;

S. 2461. An act for the relief of Berta Hellmich; and

S. 3233. An act to amend the Merchant Marine Act, 1936, to provide permanent legislation for the transportation of a substantial portion of waterborne cargoes in United States-flag vessels.

On August 27, 1954:

S. 3239. An act to authorize conveyance of land to the State of California for an inspection station;

S. 3302. An act granting to the Las Vegas Valley Water District, a public corporation organized under the laws of the State of Nevada, certain public lands of the United States in the State of Nevada;

S. 3303. An act granting to Basic Management, Inc., a private corporation organized

under the laws of the State of Nevada, certain public lands of the United States in the State of Nevada;

S. 3393. An act authorizing the Administrator of Veterans' Affairs to convey certain property to Milwaukee County, Wis.;

S. 3532. An act to provide for the partition and distribution of the assets of the Ute Indian Tribe of the Uintah and Ouray Reservation in Utah between the mixed-blood and full-blood members thereof; and for the termination of Federal supervision over the property of the mixed-blood members of said tribe; to provide a development program for the full-blood members of said tribe; and for other purposes;

S. 3769. An act to amend section 709 of title 18, United States Code, so as to protect the name of the Federal Bureau of Investigation from commercial exploitation; and

S. J. Res. 183. Joint resolution to extend greetings to the Gold Coast and Nigeria.

On August 28, 1954:

S. 22. An act to validate certain payments for accrued leave made to members of the Armed Forces who accepted discharges for the purpose of immediate reenlistment for an indefinite period;

S. 1748. An act to incorporate the National Fund for Medical Education; and

S. 3873. An act to provide survivor benefits for widows of the Chief Justice and the Associate Justices of the Supreme Court of the United States.

On August 30, 1954:

S. 1042. An act to abolish the Commission for the Enlarging of the Capitol Grounds;

S. 3187. An act to authorize the United States of America to quitclaim all its right, title, and interest in and to certain lands in Arizona, except for mineral interests therein, and for other purposes;

S. 3189. An act providing for the conveyance by the United States to the Monterey County Flood Control and Water Conservation District, Monterey County, Calif., of certain lands in Camp Roberts Military Reservation, Calif., for use as a dam and reservoir site, and for other purposes;

S. 3595. An act to direct the Secretary of the Army to convey certain property located in El Paso, Tex., and described as part of Fort Bliss, to the State of Texas;

S. 3744. An act to change the name of Gavins Point Reservoir back of Gavins Point Dam to Lewis and Clark Lake;

S. 3750. An act to direct the Secretary of the Air Force or his designee to convey certain property located in proximity to San Antonio, Bexar County, Tex., to the State of Texas;

S. 3822. An act to authorize the conveyance to the State of Texas of approximately 9 acres of land in Houston, Tex., to be used for National Guard purposes; and

S. J. Res. 147. Joint resolution to establish the Woodrow Wilson Centennial Celebration Commission, and for other purposes.

On August 31, 1954:

S. 264. An act to provide for the conveyance of certain land in the State of Maryland to the Disney-Bell Post 66 of the American Legion, Bowie, Md.;

S. 361. An act to provide for renewal of and adjustment of compensation under contracts for carrying mail on water routes;

S. 541. An act to extend benefits under the War Claims Act of 1948 to certain classes of persons, and for other purposes;

S. 555. An act for the relief of Charles W. Gallagher;

S. 599. An act for the relief of Cpl. Robert D. McMillan;

S. 1183. An act for the relief of John L. de Montigny;

S. 1203. An act for the relief of Lt. Col. Rollins S. Emmerich;

S. 1504. An act for the relief of the estate of Rev. Pang Wha Il;

S. 2070. An act for the relief of the estate of Givens Christian;

S. 2074. An act for the relief of certain Basque sheepherders;

S. 2147. An act for the relief of Terrence Waller;

S. 2259. An act for the relief of Rev. Charles V. Rossini;

S. 2266. An act for the relief of Walter P. Sylvester;

S. 2308. An act to authorize and direct the investigation by the Attorney General of certain offenses, and for other purposes;

S. 2553. An act for the relief of Joseph V. Crimi, father of the minor child, Joseph Crimi;

S. 2632. An act for the relief of the Epes Transportation Corp.;

S. 2639. An act for the relief of Etsuko Tamaki (Shimizu);

S. 2649. An act for the relief of Chaya Frangles;

S. 2693. An act for the relief of Robert Lee Williams;

S. 2789. An act for the relief of Gianni Bernardis;

S. 2893. An act for the relief of Seraphina Papgeorgiou;

S. 2954. An act for the relief of Christine Thum;

S. 2980. An act conferring jurisdiction upon the United States District Court for the Southern District of New York to hear, determine, and render judgment upon a claim of the Bunker Hill Development Corp.;

S. 3017. An act for the relief of Thomas Barron;

S. 3058. An act for the relief of certain nationals of Italy;

S. 3108. An act to modify the act of October 8, 1940 (54 Stat. 1020) and the act of July 24, 1947 (61 Stat. 418) with respect to the recoupment of certain public school construction costs in Minnesota;

S. 3110. An act for the relief of the Portsmouth Sand and Gravel Co.;

S. 3148. An act for the relief of Francesco Pugliese;

S. 3245. An act to provide emergency credit.

S. 3329. An act to amend the District of Columbia Police and Firemen's Salary Act of 1953 to correct certain inequities;

S. 3447. An act to amend the Internal Revenue Code to permit the filling of oral prescriptions for certain drugs, and for other purposes;

S. 3482. An act to amend the District of Columbia Unemployment Compensation Act, and for other purposes;

S. 3485. An act for the relief of Liselotta Kunze;

S. 3494. An act for the relief of the Central Railroad Co. of New Jersey;

S. 3562. An act for the relief of the McMahon Co., Inc.;

S. 3601. An act to provide that the Secretary of Agriculture is authorized to extend until not later than October 18, 1962, certain timber rights and necessary ingress and egress, and for other purposes;

S. 3627. An act to amend the Civil Service Retirement Act, as amended;

S. 3628. An act to amend Public Law 815, 81st Congress, in order to extend for 2 additional years the program of assistance for school construction under title III of that act;

S. 3629. An act to postpone the effective date of the 3-percent "absorption" requirement in Public Law 874, 81st Congress, for 1 year;

S. 3712. An act to authorize the commander, Air University, to confer appropriate degrees upon persons who meet all requirements for those degrees in the Resident College of the United States Air Force Institute of Technology;

S. 3840. An act for the relief of Klyce Motors, Inc.;

S. 3844. An act to provide for a reciprocal and more effective remedy for certain claims arising out of the acts of military personnel and to authorize the pro rata sharing of the cost of such claims with foreign nations, and for other purposes;

S. 3868. An act authorizing the payment of salary to any individual given a recess appointment as Comptroller General of the United States before the beginning of the 84th Congress;

S. J. Res. 170. Joint resolution to approve the conveyance by the Tennessee Valley Authority of certain public-use terminal properties now owned by the United States; and

S. J. Res. 173. Joint resolution to authorize the President to proclaim the week of November 28, 1954, through December 4, 1954, as National Salvation Army Week.

On September 1, 1954:

S. 738. An act for the relief of Maria Busa;

S. 1259. An act for the relief of Anastasia Kondylis;

S. 1604. An act for the relief of Margot Herta Matulewitz;

S. 1605. An act for the relief of James Arthur Cimino and Joan Cimino;

S. 1873. An act for the relief of Ursula Wilke and Mike Mario Wilke;

S. 2068. An act for the relief of Francesco Marinelli;

S. 2156. An act for the relief of John Enepekides, his wife, Anna, and his son, George;

S. 2301. An act for the relief of Katherina Picerkona and her minor son, Helmut;

S. 2345. An act for the relief of Yun Tai Miao and his wife, Chao Pei Tsang Miao;

S. 2366. An act for the relief of Ito Yukiko;

S. 2496. An act for the relief of Harvey Schwartz;

S. 2636. An act for the relief of Arturo Rodriguez Diaz;

S. 2640. An act for the relief of Esther Joanne Potter;

S. 2670. An act to provide for the termination of Federal supervision over the property of certain tribes, bands, and colonies of Indians in the State of Utah and the individual members thereof, and for other purposes;

S. 2731. An act for the relief of Jean Cantalini;

S. 2842. An act for the relief of Dr. Felix de Pinies;

S. 2849. An act for the relief of Elisa-Pompea Roppo (Elisa-Pompea Cardone);

S. 2879. An act for the relief of Peter Julian Newbery and Prudence Ellen Newbery;

S. 2884. An act for the relief of Sister Anna Scrinzi, Sister Giuliana Paladini, Sister Iolanda Mazzocchi, and Sister Giuseppina Zanchetta;

S. 2887. An act for the relief of Hon Cheun Kwan;

S. 2941. An act for the relief of Kim Kwang Suk and Kim Woo Shik;

S. 2945. An act for the relief of Eulalio Rodriguez Vargas;

S. 2993. An act for the relief of Ruth Wehrhan;

S. 3056. An act for the relief of S. Sgt. Silvestre E. Castillo;

S. 3112. An act for the relief of Emiko Watanabe;

S. 3138. An act for the relief of Wakako Niimi and her minor child, Katherine;

S. 3145. An act for the relief of Bonita Lee Simpson;

S. 3221. An act for the relief of Ingeborg Otto;

S. 3251. An act to provide for the conveyance of certain mineral rights to Mrs. Pearl O. Marr, of Crossroads, N. Mex.;

S. 3276. An act for the relief of Cleophat Robert Joseph Caron;

S. 3404. An act for the relief of Anni Stroee Jacobsen;

S. 3577. An act for the relief of Milos Knezevich;

S. 3586. An act for the relief of Mrs. Hildegard Simon Walley;

S. 3625. An act for the relief of Mrs. Juana Padilla de Caballero (Mrs. Juana Padilla de Ontiveros); and

S. 3652. An act for the relief of Francis Timothy Mary Hodgson (formerly Victor Charles Joyce).

On September 2, 1954:

S. 2316. An act for the relief of the Birmingham Iron Works, Inc.; and

S. 2618. An act for the relief of Ertogroul Osman.

On September 3, 1954:

S. 2862. An act to provide relief for the sheep-raising industry by making special nonquota immigrant visas available to certain skilled alien sheepherders.

DISAPPROVAL OF SENATE BILLS AFTER ADJOURNMENT

The message also announced that the President had disapproved bills of the Senate of the following titles:

On August 26, 1954:

GEORGE PANTELAS

S. 154. I am withholding my approval of S. 154, for the relief of George Pantelas.

The beneficiary of the bill is an alien who is deportable on the ground that at the time of his last entry he was not in possession of a valid immigration visa and because of his record of crimes involving moral turpitude.

The bill would authorize and direct the Attorney General to discontinue the pending deportation proceedings, cancel any outstanding order of deportation, warrant of arrest and bond which may have been issued, and would exempt the alien from deportation in the future by reason of the same facts upon which the current proceedings are based.

The alien was born in Greece on February 12, 1903. He originally entered the United States in 1921. On May 3, 1929, he was convicted in California of issuing checks without sufficient funds and sentenced to an indeterminate term of imprisonment for not more than 14 years. He was subsequently deported from the United States on June 18, 1931, because of his criminal record. Thereafter, the alien reentered the United States as a temporary visitor on May 28, 1940, under an assumed name. In proceedings before the Immigration and Naturalization Service he testified that in order to obtain a Greek passport in another individual's name he paid $100 for a birth certificate and thereafter committed perjury and forgery in securing the necessary passport visa for his reentry.

While I am in sympathy with the evident purpose of this legislation to provide support for the family of the alien, the record of bad conduct presented in this case convinces me that the granting of the relief proposed would not be in the best interests of the United States.

Accordingly, I am withholding my approval from this bill.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *August 26, 1954.*

ESTATE OF MARY BEATON DENNINGER

S. 3064. I have withheld my approval from S. 3064, 83d Congress, an act for the relief of the estate of Mary Beaton Denninger, deceased.

The bill would authorize and direct the Secretary of the Treasury to pay to the estate of Mrs. Denninger the sum of $780.36 in full settlement of all claims of the estate against the United States for payment of certain installments of an indemnity under the Servicemen's Indemnity Act of 1951.

Robert William Denninger died in service on November 20, 1952. The proceeds of a policy of United States Government life insurance, $2,443.27, were paid on behalf of Mary Beaton Denninger, the designated beneficiary. However, in order to determine whether she was also entitled as a widow to an indemnity of $7,000 under the Servicemen's Indemnity Act of 1951, for which no beneficiary had been designated, it was necessary to obtain evidence of the interlocutory judgment of divorce which the serviceman had obtained from her effective March 12, 1952, as well as evidence pertaining to the dissolution of one of her prior marriages. Upon receipt of evidence establishing her eligibility, settlement was authorized on her behalf and, without knowledge that she had died 2 days previously, a check for $780.36 representing 12 accrued installments of indemnity was mailed to a Veterans' Administration agency on October 27, 1953, for delivery to the payee. Because of the death the check was returned and canceled.

The law prohibited payment to Mrs. Denninger's estate, and thereafter the Veterans' Administration made settlement of the indemnity in favor of the serviceman's parents, the next entitled beneficiaries. This settlement included the installments totaling $780.36 which had accrued during the lifetime of Mrs. Denninger. The bill proposes that, in addition, the Government pay $780.36 to Mrs. Denninger's estate.

Favorable action by the committees which considered the bill appears to have been based upon the view that the installments which accrued prior to Mrs. Denninger's death became her property and, accordingly, should be paid to her estate. The specific language of the law clearly expresses a contrary intention on the part of the Congress. I cannot agree either that the mandatory provision of the law should be abrogated in this case to the exclusion of other similar cases, or that the Government should be subjected to double payment of those installments of indemnity which accrued during Mrs. Denninger's lifetime. To do so would obviously be discriminatory and precedential.

As I have previously stated, if the law is to be changed it should be changed for all. Uniformity and equality of treatment under general law applicable equally to all must be the steadfast rule if the Federal programs for veterans and their dependents are to be operated successfully. Heeding the special plea of individual cases would obviously destroy the effectiveness of these programs.

For the foregoing reasons, I am unable to justify approval of S. 3064.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *August 26, 1954.*

On August 28, 1954:

GRAND TETON NATIONAL PARK

S. 1706. I have withheld my approval from S. 1706, to provide for taxation by the State of Wyoming of certain property located within the confines of Grand Teton National Park, and for other purposes.

The bill would permit the State of Wyoming and any taxing authority of the State to levy taxes on privately owned hotels or lodging facilities within Grand Teton National Park. It further provides that if the United States acquires such properties in the future, payments in lieu of taxes will be made by the United States in amounts equal to the last annual taxes assessed against the property by the State or locality when it was privately owned.

This legislation is unnecessary for two reasons: First, the State now has authority to tax privately owned hotel or lodging facilities in the park and has collected such taxes for some time. Second, there appears to be no disposition on the part of the United States to acquire any such property in Grand Teton National Park, either through purchase or donation. However, I am withholding my approval not only because the bill is unnecessary but also because of the precedent it might establish for piecemeal action in this field.

The present Congress approved my recommendation that a Commission on Intergovernmental Relations be established to study the means of achieving a sounder relationship between Federal, State, and local governments. I have requested that the Commission's report include recommendations as to how to solve the difficult problems which arise in the field of intergovernmental tax immunities. The Commission has a special study committee on in lieu payments and shared revenues. The Commission's report is expected in the near future, and it is anticipated that the administration will recommend legislation to accomplish its recommendations shortly thereafter.

I believe that questions of Federal tax immunity should be decided broadly and deliberately, rather than through a succession of piecemeal decisions and that this decision should await the recommendations of the Commission on Intergovernmental Relations on this question.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *August 28, 1954.*

On August 31, 1954:

ESTATE OF CARLOS M. COCHRAN

S. 820. I have withheld my approval from S. 820, for the relief of the estate of Carlos M. Cochran.

This enrolled enactment would pay the sum of $5,000 to the estate of Carlos M. Cochran, who was killed in line of duty when he was a member of the Armed Forces in 1942.

The soldier decedent was discovered lying beside a highway just outside the entrance to the military installation where he was stationed. Although he appears to have been temporarily of unsound mind at the time, the sentry at the gate to the installation who discovered him and took him into custody was not aware of this fact. While the sentry was telephoning for military policemen to come to the gatehouse for the decedent, he attempted to escape. He failed to obey the sentry's three shouted

commands to halt. The sentry then aimed his shotgun at the decedent's legs and fired. Just at this moment the decedent jumped into a ditch. As a result, he was struck in the chest rather than the legs, and was instantly killed.

A board of officers, which subsequently considered the case, determined that the sentry's actions had been reasonable under all of the circumstances. The board also determined that since the decedent was known to have been in a state of mental confusion at the time of the shooting, his death should be considered to be in line of duty.

The records of Army show that the regular death gratuity was paid in this case and that at the time of the decedent's entry into the military service he was offered but specifically refused national service life insurance.

The decedent's closest survivor seems to be a sister, who presumably would be the ultimate beneficiary of the bill. She is not entitled to survivorship benefits under laws administered by the Veterans' Administration, since sisters are not included within the categories of survivors eligible to receive benefits under such laws.

Laws administered by the Veterans' Administration and other Federal agencies provide systems of benefits for certain dependent survivors of members of the Armed Forces killed in line of duty. Benefits so authorized are generous and are payable to the specified survivors regardless of whether death results from the negligence or willful misconduct of fellow servicemen or any other person. Under the circumstances, I think it only fair and reasonable to consider the generous, uniform, and assured protection which these systems afford as the exclusive remedy against the United States on account of the death of a member of the Armed Forces killed in line of duty. Any other view would be productive of anomalies and serious inequities.

The foregoing view accords with that taken by the Supreme Court in denying relief in a negligence case brought under the Federal Tort Claims Act in which, as here, a member of the Armed Forces was killed not only in line of duty but incident to his actual military service. Such a view is in no sense novel. Military and veterans' survivorship benefits are the equivalent of civilian workmen's compensation benefits. The Federal Government and most of the States have abolished actions for damages between employers and employees and superseded them with workmen's compensation statutes, which provide the sole basis of liability in most cases.

Additionally, as already noted, the decedent had the opportunity to apply for a policy of national service life insurance in the maximum amount of $10,000. He was specifically offered this opportunity, but refused to take advantage of it, as is indicated by his service record.

Accordingly, while regretting the tragic death of the decedent, I am constrained to withhold my approval from S. 820.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *August 31, 1954.*

LAWRENCE F. KRAMER

S. 2083. I have withheld my approval from the bill (S. 2083) for the relief of Lawrence F. Kramer.

The bill provides for payment to Lawrence F. Kramer of Paterson, N. J., of the sum of $67,500 in full satisfaction of his claim against the United States for (1) compensation for services rendered by him during the period from 1935 to 1952 in assisting and enabling the United States to prosecute successfully criminal proceedings against certain defendants who had defrauded the Government in connection with fixed prices on work projects in the State of New Jersey, and (2) for reimbursement for expenses incurred by him in rendering such services.

It appears that in late 1935, Mr. Kramer complained to the Works Progress Administration concerning the existence of a possible fraud conspiracy, collusive bidding, and bribery in connection with certain sand and stone supply contracts awarded, and to be awarded, by the Works Progress Administration in northern New Jersey. His sole information was that his father, Philip Kramer, operator of a stone quarry at Paterson, N. J., had been approached by one George Brooks to participate in the scheme, and had refused, and that as a result of his refusal, stone supplied by him had been rejected by the Works Progress Administration (apparently due to the influence of the conspirators), with the consequence that he suffered heavy business loss.

As a result of this complaint, an investigation was undertaken by the Government which culminated in the conviction of the lawbreakers in 1941 and a civil recovery (by way of settlement) in 1952. Apart from the initial tip concerning the existence of a possible conspiracy, and the furnishing of the names of certain persons having knowledge of the approach made to his father, it does not appear that claimant contributed anything to the successful prosecution and civil recovery.

There is nothing to distinguish this case from any other case in which the Government receives from a private citizen information concerning wrongful action with reference to which criminal proceedings are brought and civil recoveries are obtained. The vast majority of such proceedings are made possible by citizens who either because of their normal interest in law enforcement and good government, or because of self-interest supply law enforcement officers with information of the character here involved.

Even if claimant were to be treated as if he had commenced suit as an informer, he would be entitled to no more than the 10 percent of the civil recovery, whereas the bill proposes to award him 30 percent of that amount.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *August 31, 1954.*

GRAPHIC ARTS CORP. OF OHIO

S. 2801. I am withholding my approval from S. 2801, for the relief of Graphic Arts Corp. of Ohio.

S. 2801 provides that the Secretary of the Treasury be authorized and directed to pay the sum of $84,359.19 to the Graphic Arts Corp. of Ohio, Toledo, Ohio, in full settlement of all claims of the said Graphic Arts Corp. against the United States. The bill would afford financial relief to the Graphic Arts Corp. for losses alleged to have been incurred in the performance of contract W–33–038i ac–2023 with the Army Air Corps during the period January 1 to June 1, 1946.

It is the contention of the corporation that it was not supplied with the full quantity of work contemplated by the contract during the contract period, and that the contractor was assured by representatives of the Army Air Corps that it would be protected against losses in its operation under the contract. However, it appears that the contractor did accept extensions of time and other amendments to the original contract under various change orders and supplements pertinent thereto by executing said documents. It is reported that payments totaling $2,029,185.29 were made to the contractor.

Insofar as furnishing work under the contract was concerned, it appears that there was substantial compliance by the Government within the contract period as extended.

There is an established rule that a formal written contract entered into on the basis of negotiations between the parties merges all such previous negotiations and is presumed in law to express the final understanding of the parties. Contract W–33–038 ac–2023, as amended, was entered into on a fixed-price basis. It contained no provision for payment of additional compensation merely because the contractor might suffer a loss in performance. Hence, while the contractor's claim is based primarily upon the premise that certain representations were made by Government officers at the time the contract was negotiated to the effect that the Government would protect the contractor from any loss in performance, the terms of the contract relating to the work to be performed and to the prices to be paid therefor were clear and unambiguous and such extraneous representations, even if established, legally could not be resorted to for the purpose of imposing an additional obligation on the Government. If the contractor felt that the formal contract and change orders and extensions, et cetera, did not afford it sufficient protection against losses in performance, it should not have signed the contract and accepted the extensions. Having done so, it seems clear that there is no liability for any further payment to the contractor, based upon the contract provisions.

Government audit of the contractor's records indicates that this corporation, although claiming a loss of $67,952.31 in the operation of the Gadi division for the 5 months' period beginning January 1, 1946, actually sustained a loss of only $46,213.94 during that period. Of this amount, the audit report shows only $29,432.29 was applicable to Army Air Corps contract W–33–038 ac–2023. Despite this loss of $29,432.29 on this contract for the first 5 months of 1946, the

contractor actually earned a profit of $34,202.86 on the entire contract. The audit report also discloses that this contractor earned a profit of $392,329.15 on all other Government business for the years 1944, 1945, and the first 5 months of 1946. Its commercial business during the same period also operated at a substantial profit.

My approval of this bill would establish the undesirable principle of Government underwriting any wartime losses incurred by contractors providing goods and services to the Government, regardless of the fact that such contractors did not sustain a net loss. I am unable to perceive any circumstances which would warrant preferential treatment for the claimant to the detriment of other wartime contractors. I am satisfied that it is my duty to oppose this bill.

Although my examination of the record in this case does not lead me to believe that there is an equitable basis for this claim, it is possible that a court through judicial processes might be led to determine otherwise. In complex situations like this one, it is my opinion that judicial rather than legislative remedy should be sought. I would, therefore, be willing to give my approval to a jurisdictional bill waiving the bar of any statute of limitations against the claim.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *August 31, 1954.*

On September 1, 1954:

MRS. MERLE CAPPELLER WEYEL

S. 45. I am withholding my approval of S. 45, a bill for the relief of Mrs. Merle Cappeller Weyel.

This enrolled enactment would pay the sum of $5,437.21 to Mrs. Merle Cappeller Weyel in full settlement of her claim arising out of the death of her husband after his release from active duty in the Navy in 1948.

The husband of the beneficiary of this bill was recalled to active duty in 1947, after having been retired following the completion of 30 years of service. Prior to his release from this tour of duty, he was given a particularly thorough physical examination because of indications that he might be suffering from high-blood pressure. However, a board of medical survey determined, as a result of this examination, that he was physically qualified for release from active duty, and he was accordingly again returned to his retired status in February 1948.

Subsequently, this officer was treated and X-rayed by a private physician in September 1948. The X-ray disclosed that he was suffering from a malignancy which caused his death in December 1948, after two unsuccessful operations in private hospitals.

This deceased officer's case was twice considered by the Board for the Correction of Naval Records, which was established by statute to correct records where this was necessary to remove an injustice. It was contended by the beneficiary that the malignancy should have been discovered at the time her husband was released from active duty and that, if it had been discovered, he would have been kept on active duty until his death. On the basis of this, it was further contended she was entitled to be paid the usual death gratuity, the difference between her husband's active and retired pay for the period between his release from active duty and his death and the amount of private medical and hospital expenses incurred on his behalf. The present measure is based on these same contentions.

After twice reviewing the case, the Board concluded that it was to be presumed that the malignancy had existed at the time the decedent was released from active duty and that, had its existence been discovered, he would not have been released at the time he was. However, the Board concluded that the decedent would not have been kept on active duty until his death, but in all probability would have been retired for physical disability not later than July 1948.

I can perceive no justification for the payment which the bill would make on account of the cost of private medical and hospital care incurred on behalf of the decedent. He was, at all times, entitled to such care at facilities operated by the Navy Department. There is no showing that any attempt was made to take advantage of these facilities. But, on the contrary, it appears that, for personal reasons, the decedent elected to be treated privately. If the Government is to establish medical facilities and make provision for the care of servicemen and veterans, as it has done, it cannot, at the same time, be expected to undertake reimbursement of such personnel when they decide, for personal reasons, to obtain care at their own expense from private physicians and hospitals.

Another reason why I am unable to approve this measure is that, as enacted, it is either unfair to the beneficiary or to the Government. This results from the fact that the bill excludes payment of the death gratuity of 6 months' pay which was originally claimed by the beneficiary but recognizes and authorizes the payment of the difference between active duty pay and retired pay for the entire period between the date of the decedent's release from active duty and the date of his death. It is obviously inconsistent to exclude the one and recognize the other. If the decedent is to be considered on active duty for the entire period in question for pay purposes, he certainly should be so considered with respect to the payment of the death gratuity. On the other hand, if his active duty is considered to have ended prior to the date of his death, then it is equally obvious an adjustment should be made in the pay differential award. In all fairness, it would appear that this inconsistency should be resolved one way or the other.

It should be stressed that notwithstanding disapproval of the bill, the beneficiary can now have her claim settled administratively. Since the time when the case was last reviewed by the Board for the Correction of Naval Records, legislation has been enacted which permits administrative settlement of claims based on changes in records made by the Board. Reconsideration of the beneficiary's claim under such legislation would result in an award which, I am confident, will be equitable from the standpoint of both the beneficiary and the Government. In this connection I should like to express my belief that the Board should take into account, in its reconsideration of the case, the possibility that had it been discovered prior to his release from active duty medical treatment of the decedent's condition might very well have led to his retention on active duty until the date of his death.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *September 1, 1954.*

E. S. BERNEY

S. 46. I have withheld my approval from S. 46, entitled "For the relief of E. S. Berney."

This bill would pay to E. S. Berney the sum of $4,750 as compensation for damages allegedly sustained by him as a result of certain representations made by a representative of the Navy during World War II.

It appears that in the summer of 1943 a representative of the Navy discussed with the beneficiary the potential use of his Nevada ranch and certain adjoining ones as a bombing range. Although the evidence on this point is conflicting, it appears that such representative indicated that he expected the Navy to begin operations that fall and that, prior to the beginning of such operations, all livestock would have to be removed from the land. The beneficiary alleges that on the basis of this information he disposed of his cattle and other property and vacated his ranch early in the fall. It developed, however, that the Navy did not need or begin to use his land until the following spring.

In subsequent condemnation proceedings, the court refused to recognize any damages occurring prior to the time when the Navy began using the land in question in the spring of 1944. On this premise the court awarded the beneficiary $766.67 for damages occurring after use by the Navy began. The present bill was designed to afford compensation for damages which were excluded by the court and which the beneficiary alleges were due to the premature vacation of his land.

Conceding the facts in this case to be as stated by the beneficiary, it still does not follow that he is entitled to the award proposed here. It has not been established that the damages allegedly sustained by the beneficiary were due to a reasonable reliance upon the representations of the Navy representative. There appears to have been no such reliance on the part of other ranch owners whose land was taken under similar circumstances and whose statements appear in the committee reports in support of some aspects of the beneficiary's claim.

In addition, there appears to be confusion as to the basis for measuring the damages which the beneficiary allegedly sustained. He made an unverified claim of damages in the amount of $12,000. Part of the damages so claimed are covered by the $766.67 condemnation award. The Congress reduced the claim

to $4,750, with no indication as to how this sum was arrived at.

From the foregoing, it seems to me, that the record in this case is inconclusive both with respect to the merits of the beneficiary's claim and as to the damages which he may have sustained. These uncertainties compel me to withhold my approval from this bill.

I would, however, be willing to approve legislation which would permit adjudication of the case by the appropriate district court. Such legislation should authorize the payment to the beneficiary of such damages as the court might determine to be reasonably attributable to his reliance upon the alleged representations made to him by the Navy representative. I believe that only by such means can the rather obscure elements of this case be considered and resolved in a manner fair to both the Government and the beneficiary.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *September 1, 1954.*

ELEPHANT BUTTE DAM

S. 417. I have withheld my approval from S. 417, a bill conferring jurisdiction upon the United States District Court for the District of New Mexico, to hear, determine, and render judgment upon certain claims arising as a result of the construction by the United States of Elephant Butte Dam on the Rio Grande.

Under S. 417, jurisdiction would be vested, notwithstanding any statute of limitations or lapse of time, in the United States District Court for the District of New Mexico, "to hear, determine, and render judgment upon any claim against the United States for compensation for the taking of or for damage to real or personal property as a result of the construction by the United States of Elephant Butte Dam on the Rio Grande."

The bill does not identify the persons to whom it would open the doors of the district court. It does not identify the date or dates on which the alleged taking of property or damage occurred. It does not identify the events which might be alleged to have caused the damage or the taking. Its only requirement is that suit be filed within 2 years from the date of enactment of the bill.

Construction of Elephant Butte Dam was commenced by the Interior Department in 1912. Approval of the bill would thus be an open invitation to anyone who believes that he has, at any time over the last 42 years, been injured in his property by the construction of this dam to bring the United States into court, no matter how stale his claim may be.

It appears that the cases around which the hearings on the bill principally turned are those of a number of persons who believe that the existence of the dam, taken in conjunction with the severe floods that descended the Rio Grande Valley in 1929, resulted in the permanent seeping or swamping, from and after that year, of their lands in the neighborhood of the now abandoned town of San Marcial. I am aware of no showing, however, that these landowners did not have an adequate opportunity to pursue their legal remedies within the period prescribed by general law or that there were sound reasons for their failure to do so. Still less am I aware of any reasons for including within the coverage of the bill not only these landowners, but also all others who, regardless of time, attribute a damaging or destruction of their property to the construction of Elephant Butte Dam.

The very purpose of a statute of limitations—whether it relates to suits between private citizens or to suits brought against the Government—is to avoid stale claims and to procure a reasonably prompt initiation of judicial action before records are lost or scattered, memories grow dim, and witnesses die or become unavailable. To say this is not to say that compliance with the statute must be insisted upon in cases where its waiver would avoid a clear inequity. The instant bill, however, is not in this exceptional category. On the contrary, the controversies with which it deals necessarily involve the resolution of questions of fact, of which some, at least, would require oral testimony from persons familiar with conditions as they were at the time when the claims originally arose. Thus, the nature of the claims here involved emphasizes the justice and wisdom of the general rule. Against this background, nothing in the terms or history of S. 417 of which I am informed offers any sound ground for the departure from existing law which the bill would sanction.

Beyond these considerations there is, in my judgment, no more merit to waiving the statute of limitations in order to permit the trying of cases which may range over all the forty-odd years of Elephant Butte history than there would be in the case of any other Federal river-control structure. In other words, I am seriously concerned that an exception as broad as that which S. 417 proposes to make in the case of Elephant Butte would be a precedent for attempts to secure similarly overgenerous legislation in the case of every other Federal river-control structure that anyone believes has caused him harm, regardless of how long ago the harm occurred.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *September 1, 1954.*

CUBAN-AMERICAN SUGAR CO.

S. 3304. I am withholding my approval from S. 3304, which would confer jurisdiction upon the Court of Claims of the United States to consider and render judgment on the claim of the Cuban-American Sugar Co. against the United States.

The problem at the root of the lawsuit and the private relief bills involves the company's World War I excess-profits taxes for the year 1917. The specific facts in this 34-year-old controversy are set forth fully in the report of the Senate Judiciary Committee (S. Rept. 1963, 83d Cong., 2d sess.). Basically, the taxpayer, for the year 1917, computed its excess-profits tax liability on the invested capital method. Some years thereafter, it felt that its tax liability was excessive and requested the Commissioner to compute the tax under the relief provisions of the law. When this was done, additional taxes were found to be due, and were paid. Several years later, in 1927, a claim for refund was filed on the ground that the tax computation by the relief method was erroneous. This claim was rejected on March 15, 1933, although later that year the taxpayer attempted to amend it, claiming that the invested capital method should be used. This method had been used in a settlement of the years 1918, 1919, and 1920, controversy with respect to which had been going on concurrently. The claim for refund filed in 1933 was rejected on the grounds it was not filed within the statutory period.

The overall effect of the legislation would be to direct the Court of Claims to determine the 1917 liability of the taxpayer by applying the invested capital method used in settling the years 1918, 1919, and 1920, before the Board of Tax Appeals (even though sec. 3 of the enrolled enactment states that nothing in the act is to be construed as an inference of liability on the part of the United States) since, as the committee report indicates, there is no question but that the taxpayer's taxes were overpaid.

Since the bill grants relief from the operation of the statute of limitation, special equitable circumstances should appear which require that this taxpayer be singled out for special relief. It is difficult to find such circumstances in this case. Basically, the Senate report urges that the taxpayer was denied a proper hearing by the Commissioner with respect to this claim. Yet, as the Senate committee report itself indicates, both prior to 1921, and after 1927, the taxpayer and the Commissioner's representatives had numerous conferences with respect to the taxpayer's 1917 liability. It would have served no purpose to hold further conferences in 1933 on a refund claim which was filed after the statute had run and based on another method of computation.

It is also suggested that the Bureau of Internal Revenue and the taxpayer "agreed" to postpone any action on the 1927 claim for refund until the 1918, 1919, and 1920 cases were determined.

No valid evidence appears that there was such an agreement. Indeed, the only information regarding any such discussion is, as the Court of Claims stated in a decision rendered in 1939 on this matter and involving this taxpayer that a representative of the taxpayer had written a letter to the Bureau "purporting to confirm a conversation" with a representative of the Bureau that further conferences on the year 1917 were to be indefinitely postponed for the reason that nothing further could be done regarding the special assessment question until such question had been settled by the Bureau or the Board of Tax Appeals. This unilateral statement not only does not seem adequate evidence of such an agreement but illustrates the desirability of a statute of limitations which disposes of stale claims and the necessity for retaining or securing evidence with respect thereto.

Finally, the bill requires the Court of Claims to use a specific method of computing invested capital—assuming the taxpayer has overpaid his taxes—to be based upon an amount arrived at in settling the controversy before the Board of Tax Appeals for the years 1918 through 1920. The year 1917 was not involved in that settlement, nor, as the Court of Claims indicated in its 1939 decision, "does the action taken with respect to subsequent years constitute conclusive proof as to 1917." Even assuming the desirability of granting jurisdiction to the Court of Claims for this year, it does not seem desirable to preclude the court from determining the correct tax liability for the year.

Since the proposed legislation would be discriminatory and would single out a particular taxpayer for relief from the statute of limitations without adequate reason therefor, and since it would preclude the Court of Claims from determining the true tax liability, I feel constrained to withhold my approval of S. 3304.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *September 1, 1954.*

On September 2, 1954:

CONTRACTS BETWEEN GOVERNMENT AND COMMON CARRIERS

S. 906. I have withheld my approval of S. 906, to establish the finality of contracts between the Government and common carriers of passengers and freight subject to the Interstate Commerce Act.

This legislation provides that rates established under the provisions of section 22 of the Interstate Commerce Act, when accepted or agreed to by the Secretary of Defense, the Secretary of Agriculture, or the Administrator of General Services, or by any official or employee to whom the authority is delegated by them, shall be conclusively presumed to be just, reasonable, and otherwise lawful, and shall not be subject to attack, or reparation, after 180 days, or 2 years in the case of contracts entered into during a national emergency declared by Congress, after the date of acceptance or agreement upon any grounds except actual fraud or deceit, or clerical mistake.

The determination of what is a just, reasonable, or otherwise lawful rate on interstate shipments is now vested in the Interstate Commerce Commission. All shippers, including the Government, are bound as a matter of contract to pay the agreed rate, whether it be in the form of a tariff rate or a section 22 quotation. This contractual obligation is subject, however, to an overriding right of the shipper to appeal to the Interstate Commerce Commission to determine whether the agreed rate is lawful. The statute of limitations for such action in the present law is 2 years. This act would require the Government to determine the lawfulness of the rate, with finality, and through agencies other than the Interstate Commerce Commission, within 180 days at ordinary times, or within 2 years during a national emergency declared by Congress. Whereas the commercial shipper could contest the rate while it is in effect, the Government would apparently be required to cancel or refuse the rate and pay higher charges during any test of the lawfulness of the rate.

I am therefore unable to approve this legislation, which relegates the Government in its role as a user of transportation services to a position inferior to that of the general shipping public and restricts its access to the Interstate Commerce Commission, the body of experts authorized by Congress to determine the reasonableness of rates.

I see no reason why the Government should not be subject to the same limitations on retroactive review of its freight charges as the commercial shipper. That result could be accomplished equitably by an amendment to section 16 (3) of the Interstate Commerce Act specifying that the Government shall be subject to the 2-year limitation presently applicable to commercial shippers. The Government would then be on exactly the same basis under that section as all other shippers, and existing inequities in the present ratemaking relationships between the Government and the common carriers would be removed. I recommend that such legislation be enacted at the next session of the Congress.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *September 2, 1954.*

T. C. ELLIOTT

S. 1687. I am withholding my approval from S. 1687, "For the relief of T. C. Elliott."

The purpose of this enactment is to pay to T. C. Elliott, of Daytona Beach, Fla., the sum of $15,000 as compensation for his services in preparing and furnishing certain information to Members of Congress. The bill provides that payment authorized shall be free of Federal income tax.

This bill is faulty for two reasons. First, the exemption of the award from all Federal income taxes is totally unwarranted. Second, it is stated in the enactment that the payment is "compensation for services rendered." The record demonstrates that the sum to be paid is not true compensation, but a monetary award for special services.

The claimant, T. C. Elliott, was an employee of the Federal Government from November 1, 1900, until his retirement, January 31, 1944. During this period of employment Mr. Elliott was an auditor in the Navy Department, the Treasury Department, and the General Accounting Office. In such a position he became conversant with freight rates and transportation problems and furnished data on these subjects on many occasions to individual Members of Congress and to various committees of the Congress.

It is conceded that Mr. Elliott, in addition to performing his regular duties, rendered valuable service to Members of Congress. His efforts undoubtedly contributed to a saving to the Government of large sums of money, but the record is also clear that these services were rendered by Mr. Elliott voluntarily, after office hours, on his own time, or on his leave time, and were completely aside from his official duties or the requirements of his office. Mr. Elliott, like thousands of other devoted Government employees, is to be commended for the unselfish manner in which he made his knowledge of freight rates available to others.

Each year there accrue to the Government the beneficial results of extraordinary services rendered by interested private citizens and organizations who volunteer much useful information and experience to the Congress, to its individual Members, and to the executive branch agencies as well. I do not believe that claims for compensation for such volunteer services should be encouraged. Approval of legislation for that purpose would ratify an irregular and unformalized employment relation, and would also place the Congress and the executive agencies in an unacceptable and unbusinesslike position. If such services are to be on a regular or recurring or even a sporadic basis, formal arrangements for employment should be made. There are numerous alternatives. A regular full-time or part-time appointment, appointment as a consultant at a per diem or an hourly rate, and performance of work by contract are the most common. If the service is performed outside of a formal employment relationship, whatever recognition may be given to it should not be considered compensation.

I do not want my action in withholding approval of this bill to be construed as derogation of Mr. Elliott's services or as criticism of recognition by the Congress of special services afforded to its Members. While I cannot approve the bill in its present form for the reasons given above, I shall be glad to approve a bill which is by its terms an extraordinary monetary award for special service and which removes the tax-free status of the award.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *September 2, 1954.*

FOREIGN-PRODUCED TROUT

S. 2033. I am withholding my approval from S. 2033, relating to the labeling of packages containing foreign-produced trout sold in the United States, and requiring certain information to appear in public eating places serving such trout.

The bill would amend the Federal Food, Drug, and Cosmetic Act by making its criminal sanctions—imprisonment up to 3 years or a fine up to $1,000, or both—and certain civil sanctions applicable to the sale, offering for sale, possessing for sale, or serving of foreign-produced trout in violation of special provisions which the bill would add to the act with respect to such trout, except a certain species of lake trout largely imported from Canada. (These special requirements would be in addition to any of the other requirements of the act and to any applicable requirements of State law.)

These special requirements—none of them applicable to domestic trout—are as follows:

1. Foreign-produced trout would have to be packaged and, if the package is

broken while held for sale, each unit for sale consisting of one or more trout would have to be in a separate package.

2. Each such package would have to be clearly and conspicuously stamped or labeled, in type or lettering of specified size, with the word "trout" preceded by the name of the country in which such trout was produced.

3. It would be unlawful for any restaurant or other public eating place to possess, in a form ready for serving, any foreign-produced trout unless the restaurant or eating place displayed prominently and conspicuously a notice stating that "_____ trout is served in this restaurant," with the name of the country of origin inserted in the blank space.

According to the committee reports, the bill has the three-fold purpose of (1) protecting the public and consumer against deceptive and unfair acts and practices by requiring truthful disclosure of the origin of the trout being sold, (2) protecting our domestic trout producers against unfair competition from foreign producers of trout, and (3) protecting our source of supply for stocking the streams of our Nation with game trout.

It is claimed that in recent years certain merchants and restaurants have indulged in the practice of serving imported trout to restaurant patrons and other consumers as Rocky Mountain trout, Rocky Mountain rainbow trout, or under other descriptive names which, to the consumer, indicate their domestic origin. If domestic trout producers are deprived of this market, it is feared that they may be unable to continue their other important function of supplying eggs and fingerlings for restocking our streams of the sportsman-angler.

Fraud and deception in the marketing or serving of food or any other product cannot, of course, be condoned. I am convinced, however, that to the extent that the provisions and sanctions of the bill properly involve Federal functions, they are unnecessary to prevent fraud and deception. The Tariff Act and the Federal Food, Drug, and Cosmetic Act already provide for necessary labeling of imported products. Furthermore, the provisions of S. 2033 are discriminatory and oppressive against foreign trade, and to a very substantial extent they would invade a field of regulation and enforcement which I believe should be left to the States and localities. Finally, the costs of enforcement would be out of all proportion to funds available to the Food and Drug Administration for vital functions affecting the health of the American people.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *September 2, 1954.*

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Miller, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The VICE PRESIDENT laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

LEAVES OF ABSENCE

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the junior Senator from Massachusetts [Mr. KENNEDY] be excused from attendance on the sessions of the Senate for an indefinite period because of illness.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. JOHNSON of Texas. I ask unanimous consent that the Senators from North Carolina [Mr. ERVIN and Mr. LENNON] be excused from attendance on the sessions of the Senate today and tomorrow in order that they may attend the funeral of former Senator William B. Umstead, late Governor of North Carolina.

The VICE PRESIDENT. Without objection, it is so ordered.

JOHN MARSHALL BICENTENNIAL MONTH COMMISSION

The PRESIDENT pro tempore, under authority of the order of the Senate of August 20, 1954, appointed, during the adjournment of the Senate, the Senator from Pennsylvania [Mr. MARTIN], the Senator from Maryland [Mr. BUTLER], the senior Senator from Virginia [Mr. BYRD], and the junior Senator from Virginia [Mr. ROBERTSON] as members on the part of the Senate of the John Marshall Bicentennial Month Commission, established by the act of August 13, 1954.

CALL OF THE ROLL

Mr. KNOWLAND. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The legislative clerk (Edward E. Mansur, Jr.) called the roll, and the following Senators answered to their names:

Anderson	Gillette	Monroney
Barrett	Goldwater	Morse
Beall	Gore	Mundt
Bennett	Green	Murray
Bowring	Hayden	Neely
Bridges	Hendrickson	Payne
Burke	Hickenlooper	Potter
Bush	Hill	Purtell
Butler	Holland	Reynolds
Byrd	Humphrey	Robertson
Capehart	Ives	Russell
Carlson	Jackson	Schoeppel
Case	Johnson, Colo.	Smathers
Chavez	Johnson, Tex.	Smith, Maine
Clements	Johnston, S. C.	Smith, N. J.
Crippa	Kilgore	Sparkman
Dirksen	Knowland	Stennis
Douglas	Kuchel	Symington
Duff	Langer	Thye
Dworshak	Lehman	Watkins
Ellender	Malone	Welker
Ferguson	Mansfield	Wiley
Flanders	Martin	Williams
Frear	McCarthy	Young
Fulbright	McClellan	
George	Millikin	

Mr. KNOWLAND. I announce that the Senator from Vermont [Mr. AIKEN] and the Senator from Massachusetts [Mr. SALTONSTALL] are absent on official business. The Senator from Kentucky [Mr. COOPER], the Senator from Oregon [Mr. CORDON], the Senator from Ohio [Mr. BRICKER], the Senator from Indiana [Mr. JENNER], and the Senator from New Hampshire [Mr. UPTON] are necessarily absent.

Mr. CLEMENTS. I announce that the Senator from Texas [Mr. DANIEL], the Senator from Mississippi [Mr. EASTLAND], the Senator from Missouri [Mr. HENNINGS], the Senator from Tennessee [Mr. KEFAUVER], the Senator from Oklahoma [Mr. KERR], the Senator from Louisiana [Mr. LONG], the Senator from Washington [Mr. MAGNUSON], and the Senator from Rhode Island [Mr. PASTORE] are absent on official business.

The Senators from North Carolina [Mr. ERVIN and Mr. LENNON] are absent by leave of the Senate, attending the funeral of the former Senator and the late Governor of North Carolina, Hon. William B. Umstead.

The Senator from Massachusetts [Mr. KENNEDY] is absent by leave of the Senate because of illness.

The VICE PRESIDENT. A quorum is present.

DEATH OF SENATOR MAYBANK, OF SOUTH CAROLINA

Mr. JOHNSTON of South Carolina. Mr. President, it is with profound sorrow that I announce the death of my colleague, the late Senator BURNET R. MAYBANK.

I offer the resolution, which I send to the desk, and request its immediate consideration.

The VICE PRESIDENT. The resolution will be read.

The resolution (S. Res. 323) was read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of Hon. BURNET R. MAYBANK, late a Senator from the State of South Carolina.

Resolved, That the Secretary communicate these resolutions to the House of Representatives when it next assembles, and transmit a copy thereof to the family of the deceased.

DEATH OF SENATOR McCARRAN, OF NEVADA

Mr. MALONE. Mr. President, I announce the death of my colleague, the senior Senator from Nevada [Mr. McCARRAN]

I offer the resolution, which I send to the desk, and request its immediate consideration.

The VICE PRESIDENT. The resolution will be read.

The resolution (S. Res. 324) was read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of Hon. PAT MCCARRAN, late a Senator from the State of Nevada.

Resolved, That the Secretary communicate these resolutions to the House of Representatives when it next assembles, and transmit a copy thereof to the family of the deceased.

SENATOR FROM SOUTH CAROLINA

Mr. JOHNSTON of South Carolina. Mr. President, I send to the desk the

certificate of appointment of CHARLES E. DANIEL to be a Senator from the State of South Carolina, to fill the vacancy caused by the death of our late colleague, Senator MAYBANK.

The VICE PRESIDENT. The certificate will be read.

The certificate of appointment was read and ordered to be placed on file, as follows:

STATE OF SOUTH CAROLINA,
OFFICE OF THE GOVERNOR,
Columbia, September 6, 1954.

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that pursuant to the power vested in me by the Constitution of the United States and the laws of the State of South Carolina, I, James F. Byrnes, the Governor of said State, do hereby appoint CHARLES E. DANIEL a Senator from said State to represent said State in the Senate of the United States until the vacancy therein, caused by the death of BURNET R. MAYBANK, is filled by election, as provided by law.

Witness: His Excellency, our Governor, James F. Byrnes, and our seal hereto affixed at Columbia, this 6th day of September, in the year of our Lord 1954.

[SEAL] JAMES F. BYRNES,
Governor.

By the Governor:
O. FRANK THORNTON,
Secretary of State.

SENATOR FROM NEVADA

Mr. MALONE. Mr. President, I present the certificate of appointment of ERNEST S. BROWN to be a Senator from the State of Nevada, to fill the vacancy caused by the death of our late colleague, Senator MCCARRAN.

The VICE PRESIDENT. The certificate will be read.

The certificate of appointment was read and ordered to be placed on file, as follows:

STATE OF NEVADA,
EXECUTIVE CHAMBER,
Carson City.

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Nevada, I, Charles H. Russell, the Governor of said State, do hereby appoint ERNEST S. BROWN a Senator from said State to represent said State in the Senate of the United States until the vacancy therein, caused by the death of PATRICK A. MCCARRAN, is filled by election, as provided by law.

Witness: His Excellency, our Governor, Charles H. Russell, and our seal hereto affixed at Carson City, this 1st day of October, in the year of our Lord 1954.

CHARLES H. RUSSELL,
Governor.

By the Governor:
[SEAL] JOHN KOONTZ,
Secretary of State.

SENATOR FROM NEW HAMPSHIRE

Mr. BRIDGES. Mr. President, I present the certificate of election of NORRIS COTTON, to be a Senator from the State of New Hampshire, to fill the vacancy caused by the death of our late colleague, Senator CHARLES TOBEY.

The VICE PRESIDENT. The certificate will be read.

The certificate of election was read and ordered to be placed on file, as follows:

THE STATE OF NEW HAMPSHIRE,
EXECUTIVE DEPARTMENT.

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 2d day of November 1954 NORRIS COTTON was duly chosen by the qualified electors of the State of New Hampshire, to represent said State in the Senate of the United States for the unexpired term ending the 3d day of January 1957.

Witness: His Excellency, our Governor, Hugh Gregg, and our seal hereto affixed this 5th day of November, in the year of our Lord 1954.

HUGH GREGG,
Governor.

By the Governor (with the advice of the council):
[SEAL] ENOCH D. FULLER,
Secretary of State.

SENATOR FROM NEBRASKA

Mrs. BOWRING. Mr. President, I present the certificate of election of Mrs. GEORGE P. ABEL to be a Senator from the State of Nebraska.

The VICE PRESIDENT. The certificate will be read.

The certificate of election was read and ordered to be placed on file, as follows:

STATE OF NEBRASKA,
EXECUTIVE OFFICE,
Lincoln.

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 2d day of November 1954, Mrs. GEORGE P. ABEL was duly chosen by the qualified electors of the State of Nebraska a Senator from said State to represent said State in the Senate of the United States for the unexpired term ending on the 3d day of January 1955.

Witness: His Excellency, our Governor, and our seal hereto affixed at Lincoln, Nebr., this 4th day of November, in the year of our Lord, 1954.

ROBERT B. CROSBY,
Governor.

By the Governor:
[SEAL] FRANK MARSH,
Secretary of State.

SENATOR FROM NEBRASKA

Mr. REYNOLDS. Mr. President, I present the certificate of election of the Honorable ROMAN L. HRUSKA, to be a Senator from the State of Nebraska.

The VICE PRESIDENT. The certificate will be read.

The certificate of election was read and ordered to be placed on file, as follows:

STATE OF NEBRASKA,
EXECUTIVE OFFICE,
Lincoln.

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that on the 2d day of November 1954, ROMAN L. HRUSKA was duly chosen by the qualified electors of the State of Nebraska a Senator from said State to represent said State in the Senate of the United States for the unexpired term ending on the 3d day of January 1959.

Witness: His Excellency, our Governor, and our seal hereto affixed at Lincoln, Nebr., this 4th day of November, in the year of our Lord, 1954.

ROBERT B. CROSBY,
Governor.

By the Governor:
[SEAL] FRANK MARSH,
Secretary of State.

ADMINISTRATION OF OATH

The VICE PRESIDENT. If the Senators-elect and the Senators-designate will come to the desk, the oath of office will be administered to them.

Thereupon Mr. DANIEL of South Carolina, escorted by Mr. JOHNSTON of South Carolina; Mrs. ABEL, escorted by Mrs. BOWRING; Mr. BROWN, escorted by Mr. MALONE; Mr. COTTON, escorted by Mr. BRIDGES; and Mr. HRUSKA, escorted by Mr. REYNOLDS, respectively, advanced to the desk; and the oath of office prescribed by law was administered to them by the Vice President.

PROGRAM FOR THE SESSION—REPORT OF SELECT COMMITTEE

Mr. KNOWLAND. Mr. President, in a moment I shall suggest the absence of a quorum, the quorum call to include the names of the new Senators. In the meantime I wish to make a brief announcement.

Following the next quorum call I shall ask unanimous consent that there be a brief morning hour, under the 2-minute limitation, for the introduction of material into the RECORD.

I understand that the Senator from Utah [Mr. WATKINS] will then file with the Senate the report of the Select Committee To Study Censure Charges Against the Senator from Wisconsin [Mr. MCCARTHY], and that, following the filing of the report, and without further debate, the Senate, under the resolutions which have heretofore been submitted, will adjourn until 10 o'clock tomorrow morning out of respect to the memory of the late Senators MCCARRAN and MAYBANK, who died during the recess of the Senate.

I understand also that tomorrow there are to be memorial services for deceased Senators. Originally it was planned to have memorial services for the late Senators MCCARRAN and MAYBANK, as well as the two Senators for whom memorial services were not held at the close of the previous session, namely, the late Senator HUNT, of Wyoming, and the late Senator BUTLER of Nebraska.

After the original plans had been made the family of the late Senator MAYBANK requested that memorial services for him be postponed because of illness in his family. Of course, that was entirely agreeable to both the majority leader and the minority leader. Services will be arranged at a later date, at the convenience of the family, either during the present session or at a subsequent session of the Congress.

Originally it was thought that, depending upon the length of the memorial services, immediately following such services the Senate would proceed with the opening of the discussion on the censure resolution. However, within the past few minutes I have received an inquiry from the chairman of the Select Committee, the Senator from Utah [Mr. WATKINS]. I have conferred with the minority leader in connection with this request. The chairman of the committee indicates that there are to be some slight modifications or amendments in the report of the committee, in which, of

course, it is desired to have the concurrence of the Senator from North Carolina [Mr. ERVIN], who is necessarily absent from the city because of the death of the Governor of his State. I am assured that his concurrence can be obtained, so that by Wednesday morning at 10 o'clock the debate may begin. Presumably the chairman of the committee will make the opening statement at that time, and there will be no unnecessary delay in proceeding diligently with this matter.

That is the program which I lay before the Senate for its approval. It is proposed that the Senate convene each morning at 10 o'clock and continue in session until approximately 5:30 in the afternoon. Of course, that is entirely within the discretion of the Senate. However, that is my recommendation. I have previously discussed this question with the minority leader. Depending upon the progress which is made, the Senate can subsequently determine whether it will be necessary to hold sessions beyond the time I have indicated.

It is my hope—and I know that hope is concurred in by the minority leader—that committees of the Senate will not meet during the sessions of the Senate. The subject before the Senate is important. We feel that Senators on both sides of the aisle will wish to be present and hear the facts and arguments to be presented. So I hope that, so far as it is humanly possible to do so, every Senator will adjust his program to the schedule of the Senate so as to be present in the Senate Chamber during the debate on this subject.

Mr. JOHNSON of Texas. Mr. President, will the Senator yield?

Mr. KNOWLAND. I yield to the minority leader.

Mr. CAPEHART. Mr. President, will the Senator yield for a question?

Mr. KNOWLAND. I shall be glad to yield to the Senator from Indiana in just a moment. I yield first to the distinguished minority leader.

Mr. JOHNSON of Texas. Has the distinguished majority leader been assured that the junior Senator from North Carolina [Mr. ERVIN] has been consulted, and that the proposed modifications will be approved in time for the Senate to begin consideration of the censure resolution on Wednesday at 10 o'clock?

Mr. WATKINS. Mr. President, will the Senator yield to me to answer that question?

Mr. KNOWLAND. I yield.

Mr. WATKINS. I am informed that the Senator from North Carolina will arrive in the city late tomorrow afternoon. We intend to have him meet with us immediately to consider the proposed amendments to Senate Resolution 301.

Mr. JOHNSON of Texas. Does the Senator from California have the assurance of the Senator from North Carolina that he will be in the city tomorrow afternoon, and that within a relatively short time the modifications can be acted upon so that the report will be ready for presentation on Wednesday at 10 o'clock?

Mr. WATKINS. That is correct. I shall ask leave to file the report today, with the explanation that certain amendments will be made after the Senator from North Carolina returns to the city. I am sure he will be here tomorrow afternoon.

Mr. JOHNSON of Texas. Mr. President, the Senator from Texas is in complete accord with the announcements made by the distinguished majority leader [Mr. KNOWLAND]. Those announcements were made only after we had worked together on this program.

I think it is extremely important, not only to the select committee and the junior Senator from Wisconsin, but to the Senate, that each Member be present, and that the committee and the junior Senator from Wisconsin have adequate opportunity to make their presentations fully.

We are losing Monday. On Tuesday there will be memorial services for our departed colleagues. Because of the temporary absence of the Senator from North Carolina [Mr. ERVIN], the Senate will not begin consideration of the report until Wednesday morning at 10 o'clock. In view of the assurance of the chairman that the Senate will be able to begin consideration of the resolution at that time, and the assurance of the majority leader, I shall offer no objection, but I hope Senators are aware that the Senate has assembled for one purpose, and that is to receive and consider the report of the select committee. The Senator from Texas hopes that the Senate can proceed promptly with the business at hand and conclude it, in order that Senators may return to their respective States.

Mr. KNOWLAND. Mr. President, the minority leader may rest assured that, so far as the majority leader is concerned, he wishes to have the Senate proceed promptly and diligently with the consideration of the resolution. I hope the Senate can conclude consideration of this question promptly, bearing in mind the convenience of Senators and the desire to avoid late evening sessions. I believe that if the Senate will follow the plan outlined, and if Senators will remain close to the subject matter, we can move along satisfactorily.

Mr. BRIDGES. Mr. President, will the Senator yield?

Mr. KNOWLAND. I yield.

Mr. BRIDGES. Will the majority leader inform the Senator from New Hampshire whether the 10 o'clock meeting time has been decided upon as the regular meeting time, or whether that is merely his suggestion, leaving the Senate free to decide from day to day the time for meeting on the next day?

Mr. KNOWLAND. Of course, as the distinguished President pro tempore knows, the motion each evening setting the hour to which the Senate will adjourn lies within the discretion of the Senate. However, I will say that in our conferences the distinguished minority leader, the Senator from Texas [Mr. JOHNSON] and I felt, due to the fact that Senators would wish to proceed with dispatch on the subject, we would recommend to the Senate that the Senate meet at 10 o'clock each morning and remain in session until about 5:30 o'clock in the afternoon. In the event some unusual circumstances should present themselves, I am certain the minority leader and the majority leader would be glad to discuss such circumstances with all Senators and abide by the decision of the Senate. However, our recommendation is that the Senate meet at 10 o'clock, a. m.

Mr. CAPEHART. Mr. President, will the Senator from California yield?

Mr. KNOWLAND. I yield.

Mr. CAPEHART. I believe the majority leader suggested that no committee meetings be held during the time the Senate is in session. Unfortunately, before the Senate adjourned in August, I set a hearing of the Committee on Banking and Currency for tomorrow morning at 10 o'clock, in connection with the committee's investigation into the affairs of the FHA.

The reason I did so was that I had subpenaed four gentlemen to appear before the committee. They failed to appear, or refused to appear, apparently because we had announced that our hearings would close on last Friday. My opinion is that they were under the impression that if they failed to appear on Friday we would not call them at a later date. We ought not to permit anyone to evade a subpena or a summons issued by a committee of the Senate.

Under the circumstances, I have scheduled a hearing for 10 o'clock tomorrow morning and have subpenaed the four gentlemen who have thus far evaded our subpenas. That is the situation.

Mr. KNOWLAND. I may say to the distinguished Senator from Indiana, the chairman of the Committee on Banking and Currency, that I have just now discussed that matter with the minority leader. We recognize that there will be such unusual circumstances as the Senator from Indiana has mentioned.

Mr. CAPEHART. Then, as I understand, I may have unanimous consent for the Committee on Banking and Currency to meet tomorrow morning at 10 o'clock. Is that correct?

Mr. KNOWLAND. I am sure there will be no difficulty, so far as that matter is concerned.

Mr. CAPEHART. Mr. President, I ask unanimous consent that the Committee on Banking and Currency be permitted to meet tomorrow at 10 o'clock in the morning during the session of the Senate.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. CAPEHART. Mr. President, will the Senator from California yield further?

Mr. KNOWLAND. I yield.

Mr. CAPEHART. Another problem confronts us in the Committee on Banking and Currency. I do not know whether other committees are also faced with the same problem. However, earlier this year Congress passed a new law relating to the Export-Import Bank, which provided for a new Board of Directors consisting of five members. The President has submitted the names of four nominess for appointment to the Board of the Export-Import Bank.

I should like to hold a meeting of the committee at 3 o'clock this afternoon, and possibly another meeting at 10 o'clock tomorrow, and perhaps at a future time, as well, so that the members

of the Committee on Banking and Currency may satisfy themselves as to whether they should report the nominations favorably. Therefore we are faced with a situation under which Congress itself has established a Board of Directors of the Export-Import Bank and the President has nominated 4 of the 5 members of the Board. I believe we should act on the nominations promptly.

Mr. KNOWLAND. I suggest to the distinguished Senator from Indiana that in our discussions the other day the distinguished minority leader and I did not finally work out the procedure with regard to the consideration of nominations at this session. I should think it would depend on whether a nomination was controversial in character or was merely routine.

Mr. CAPEHART. I have already called a meeting of the committee for 3 o'clock this afternoon. Does the Senator from California believe the Senate will have concluded its business by that time?

Mr. KNOWLAND. I believe the Senate will have concluded its business before 3 o'clock this afternoon. I would appreciate it very much if the Senator from Indiana would withhold his request until I have had an opportunity to consult with the minority leader.

Mr. CAPEHART. I shall be very glad to do so.

Mr. McCARTHY. Mr. President, will the Senator yield?

Mr. KNOWLAND. I yield to the Senator from Wisconsin.

Mr. McCARTHY. I understand that the Senator from California has referred to some changes in the report of the select committee, and that the Senator from Utah has referred to amendments to the report.

I believe it would be highly improper to change the report at this time. I have publicly pointed out contradictions in the report, and have referred to statements in the report which I consider to be completely ridiculous. I do not believe that at this time the committee should be entitled to change the report. The report should be laid before the Senate as it was made by the select committee, without any changes. The members of the select committee have made their bed; now let them lie in it.

I shall certainly strenuously object to any changes being made in the report at this time.

Mr. KNOWLAND. Mr. President, I may suggest to the distinguished junior Senator from Wisconsin that the report which has been filed with the Senate is not formally before the Senate, although all Senators have had access to it. In other words, the report is in the nature of a committee print. Not having been formally presented to the Senate, it is still in the form of a committee print. Inasmuch as the Senate was not in session when the report was filed, obviously it could not be formally presented to the Senate.

I do not believe that the procedure sought to be followed is an unusual one. After a committee of the Senate—either a select, special, or standing committee—has provided a committee print, it is not unusual for the committee to find typographical or similar errors, and to make some changes in the report which the committee has in mind. It is not an unusual procedure, after the filing of a report and before action is taken on it by the Senate, for the committee to make necessary corrections or changes in what is a committee print.

Mr. McCARTHY. I certainly would not object to the correction of typographical errors, but I would strenuously object to any changes being made in the content of the report. For example, one of the bases for the proposed censure is that a member of a Senate committee can never be criticized.

I have pointed out that such a statement is ridiculous beyond words. In fact, it is imbecilic. After the committee has presented its report to the Senate, after I have pointed out some of the fantastic statements contained in it, and after my associates and I have based our presentation in the Senate on that report, I do not believe that at this late date the committee should be permitted to throw a new report at us.

If the committee is permitted to do so, it will be completely unfair to those of us who have based our case on what the committee has submitted as its report. Of course, I am not referring to any typographical changes which the committee may wish to make in its report.

Mr. KNOWLAND. I had hoped that we would not get into a general debate on the report before it was formally before the Senate under the schedule I have announced, and I trust we will not engage in such general debate at this time. I will say further that I have not personally seen what kind of changes the committee has in mind. In the final analysis, it is a subject which the Senate itself will have to determine.

Under the circumstances, and in view of the fact that the distinguished junior Senator from Wisconsin has not seen the type of changes that are proposed to be made—and it may well be that when he sees the proposed changes he will not have any objection to them—I hope we will not engage in a general debate at this time. Of course, on the other hand, the Senator from Wisconsin, when he hears the proposed changes, may feel that some basic changes in the report are being suggested. However, I hope that we will not engage in debate on that point at this time.

Mr. McCARTHY. As the Senator from California knows, this matter is a rather important one, not so much from the standpoint of the junior Senator from Wisconsin, because, so far as he is individually concerned, he is well able to take care of himself, but it is extremely important insofar as precedents that may be established are concerned. We have prepared our case based upon the report. Neither the Senator from Utah [Mr. WATKINS] nor any other member of the select committee has ever told me that the committee intended to change the report. If the committee had intended to change the report in any way, it seems to me that as a matter of courtesy to me the members of the committee would have sent me a telegram advising me what they proposed to do.

I may say to the distinguished Senator from California that it would be highly improper and highly irregular, after a special session of the Senate has been called to consider the report, to allow the committee to change that report at the last minute, or to throw a new report at us.

Mr. KNOWLAND. Mr. President, I would make this suggestion, and, to it I should like to invite the attention of the distinguished minority leader, in view of the discussion which has taken place. We are very anxious to be able to proceed under the schedule of starting the debate at 10 o'clock next Wednesday morning, without any further delay, because the Senate has been called back to act on this important question, and probably the Members of this body, particularly those who were running for reelection or for election, were in a very vigorous campaign, and have had no vacation. I have had none, and I think most of the other Members of the Senate have not been able to get any rest or vacation in the intervening period of time. So, Mr. President, we do not want to prolong the debate any further than may be necessary in order to do justice and equity. Since, obviously, the distinguished Senator from Wisconsin has not seen the proposed changes, and the Senator from Utah has indicated that his committee will not be prepared to present the changes until the distinguished Senator from North Carolina [Mr. ERVIN] has returned tomorrow afternoon, and since the Senate will be in session tomorrow, I was wondering whether, rather than prolonging the debate at this point, we would be in a sounder position from a parliamentary point of view to delay the filing of the report until the amendments are ready to be presented, which the Senator from Utah says will be tomorrow.

Mr. WATKINS. Mr. President, if the Senator will yield, I think we are unnecessarily borrowing trouble. There are very few changes in the report, and they are mostly typographical in nature, and there is one short deletion. The report appeared as a committee print. I was directed to prepare an amended resolution to present to the Senate. I feel that all members of the committee should be consulted. The Senator from North Carolina [Mr. ERVIN] has had no opportunity to discuss it.

Mr. KNOWLAND. So far as the committee report is concerned, the changes are substantially typographical changes?

Mr. WATKINS. With the exception of one short deletion of 4 or 5 lines, which is obviously an error.

Mr. KNOWLAND. The particular matter to which the Senator refers and which he feels the Senator from North Carolina should have an opportunity to pass upon is the resolution which has been mentioned in the report and which will be presented to the Senate and on which the Senate will vote.

Mr. WATKINS. I beg the Senator's pardon. I did not understand his question.

Mr. KNOWLAND. I say, the reason for the delay, so far as the Senator from North Carolina is concerned, relates to

the resolution rather than to the report. Is that correct?

Mr. WATKINS. That is correct.

Mr. McCARTHY. Mr. President, will the Senator from California yield in order that I may ask a question of the Senator from Utah?

Mr. KNOWLAND. I yield for that purpose.

Mr. McCARTHY. The Senator from Utah says there is a deletion of 4 or 5 lines which contain an obvious error. I should like to know which obvious error is being deleted. I must know that in order to prepare my case. I have found so many obvious errors that I should like to know which one the Senator is deleting. I am asking the Senator a frank question.

Mr. WATKINS. I will give the Senator from Wisconsin a frank answer. When this body adjourns I shall give the Senator a copy of the whole thing. There is nothing to hide.

Mr. McCARTHY. Mr. President, what is the parliamentary situation? Is the majority leader asking unanimous consent?

Mr. KNOWLAND. No; not at the moment. I asked unanimous consent that we might have a morning hour, and I am not sure whether such consent has been granted. So I want to ask unanimous consent that immediately following a quorum call we may have the usual morning hour for the introduction of material into the RECORD, under the 2-minute limitation.

Mr. McCARTHY. Will the Senator amend his request to include the request that the report be filed as is, and that any amendments which the Senator from Utah wishes to file he may bring in tomorrow? I think Senators should see the report as it now is. If the Senator from Utah wishes to make any amendments they can be brought in tomorrow.

Mr. KNOWLAND. I should not like to amend my unanimous consent request in that manner, because it deals with an entirely different subject. But before we settle this particular question the Senator from Wisconsin will have an opportunity to discuss it further. In the meantime, I shall discuss the question with the distinguished minority leader.

THE REGULAR SENATE ORDER—WORK OF COMMITTEES

Mr. MALONE. Mr. President, will the Senator from California yield?

Mr. KNOWLAND. I yield.

Mr. MALONE. I should like to say to the distinguished majority leader that the regular Senate order should be maintained so that the committees having to work continuously throughout vacation periods can function. My committee did that last year under Senate Resolution 143 and programed the work under Senate Resolution 271 again this year, starting immediately after the adjournment. The Mineral, Materials, and Fuels Economic Subcommittee of the Committee on Interior and Insular Affairs, of which I am chairman had originally set hearings, beginning on Monday, to run for a considerable length of time. We moved the date ahead to Wednesday for the start of the special session. A number of witnesses have been called, and it would be very inopportune to cancel their appearance at this time.

The work of the committee was scheduled to continue to and including December 22.

I would say to the distinguished Senator that it is most unusual to be called here to consider a report which we now understand will be amended.

Is it to be rushed through a continuous meeting, or a Senate session of long hours without proper opportunity to study the effect and precedent that would be established?

Mr. KNOWLAND. I have not suggested that we are going to rush it through.

Mr. MALONE. Mr. President, a point of order. I had not finished my question for which the majority leader had yielded to me.

Mr. KNOWLAND. I have the floor and had yielded to the Senator from Nevada. The majority leader is not trying to rush anything through. The report which has been presented is a committee print. The information was made available to the Members of the Senate.

We are sitting in one of the most important functions of the Senate of the United States—to consider a resolution which affects a Member of this great body, which is, in my opinion, the greatest legislative body in the world. I say that without any disparagement of our colleagues in the other Chamber.

Under those circumstances, it seems to me that we should proceed in as semijudicial a manner as is possible. We are not strictly a judicial body. Certainly the majority leader has no intention of requesting that the matter be rushed through. As I pointed out earlier, we are not requesting any around-the-clock session or a meeting for a period of time that would work hardship to Senators. But it does seem to me as a matter of fairness to the distinguished Senator from Wisconsin, to the committee, and to all the 96 Members of this body, on both sides of the aisle, that when the Senate is called into session on this particular matter and when some persons have said we are sitting perhaps somewhat as jurors, the jurors ought to be present and hear the arguments. I hope we have not prejudged this case. I think the overwhelming majority, even though some may have prejudged it, will keep an open mind in connection with the statements of the Senator from Wisconsin and the other Senators who will discuss his side of the case, until they have had the report of the committee, and until they have heard the discussion of the question. That being so, it seems to me to be an inequitable thing and an unfair thing to have various committees of the Senate meeting while those discussions are proceeding, following which Senators will be called upon to vote on a question of this magnitude.

Mr. WELKER. Mr. President, will the Senator from California yield?

Mr. KNOWLAND. In a moment.

I would respectfully say to the Senator from Nevada that in the case of his committee or of other committees, arrangements be made to hold hearings in the mornings or evenings at a time when the Senate is not in session. It seems to me that would be the more orderly procedure. I have no control over what the 96 Members of this body may do. They may decide to meet at 12 o'clock and adjourn at 2 o'clock in the afternoon. I think that would be a mistake. But the Senate itself will determine its procedure.

I only recommend to the Senate a course of action which the Senate can approve, or it can take some other action. I was not trying to rush anything through.

CONTINUOUS SENATE SESSIONS

Mr. MALONE. Will the Senator yield to me that I might complete my question?

Mr. KNOWLAND. Yes; I yield to the distinguished senior Senator from Nevada.

Mr. MALONE. Again, I wish to ask the question of the distinguished majority leader. Is it fair to committees which have had meetings set for months to present now to the Senate a report which obviously will be changed, even though Senators have seen the original report? I hope the distinguished majority leader has not made up his mind as to how he will vote on the resolution.

I shall object to any unanimous-consent agreement to keep the Senate in continuous session.

Mr. KNOWLAND. The Senator from California has not. I do not normally prejudge cases.

Mr. MALONE. It is not necessary to judge the case now. I was interrupted in asking a question earlier in the debate. Does the Senator from California think it is fair to the committees which do their work during vacation periods to have the Senator monopolize the entire time, and thus to make it impossible for the committees to carry on their work, which it is customary to present at the next session?

Does the Senator from California believe that the precedent which was set during the 83d Congress of holding sessions almost around the clock, resulting in the deaths of nine Senators, should be continued at this session? And does the majority leader believe that all other programed work of the committees should be sidetracked?

CENSURE WITHOUT SENATE RULE VIOLATED

I agree thoroughly with the Senator from California that the resolution which the Senate is to consider is one of the most important matters ever to have come before the Senate, a resolution to censure a Senator, when there is no allegation that he has ever violated the rules of the Senate. It is not even alleged that the Senator to be censured has violated any rule of the Senate.

Mr. KNOWLAND. I may reply to the Senator that, under the circumstances which I have outlined I think the priority business before the Senate is the consideration of the resolution and the report of the select committee. The distinguished senior Senator from Nevada, as a Senator of the United States, will be entirely within his rights, at such time as he deems it advisable, to move

that the Senate follow some other procedure. But I believe that in view of the fact that the Senate has been called into session for the purpose of considering the resolution and the report of the select committee, priority consideration should be given to them.

Merely expressing my own views, I believe that the Senate has returned for debate on the resolution and a consideration of the statements of the distinguished junior Senator from Wisconsin and other Senators who may participate in the discussion and lay facts before the Senate. Therefore, I would not wish to see a half-empty Chamber or even to have a few Senators absent, because I would not desire to have a censure resolution concerning me considered without all the facts being presented to all Senators who could possibly be present.

Mr. MALONE. I am saying to the majority leader that if the usual Senate procedure is followed then no committee hearings will interfere with it and time will be available for the Members to reflect on the precedent they are about to establish.

The Senator to whom the censure is directed is only the whipping boy—the objective is and has been to destroy the investigative power of the Senate.

THE REGULAR ORDER

Mr. WELKER. Mr. President, will the Senator yield?

Mr. KNOWLAND. I yield.

Mr. WELKER. I agree with the distinguished majority leader.

So long as I am a Member of the Senate I shall object to any Members being off the floor until they have heard a full and complete debate. I believe every Member would wish to do exactly that.

Therefore, the regular order of the Senate should be followed—we should meet at noon, as the long-established procedure dictates, and the session should end at a reasonable time—perhaps 5 or 6 o'clock.

I have no desire to delay the proceedings. I have heard it said—and I think I heard it said by the senior Senator from Utah [Mr. WATKINS]—that after the Senate adjourned today the junior Senator from Wisconsin would be able to see what it was proposed to delete from the report. Would it not be fair, then, that every Senator who has worked on the report, whether he be for or against the censure resolution, be given the same right? I may inform the Senator that I have spent hour after hour, day after day, in trying to do honest, legal research on the matter, so as to be able to present a sound legal argument to the Senate. It may be that the 5 lines which it is proposed to delete will be the same 5 lines on which I have been working.

I have a further observation to make. Time seems to be of the essence in this matter. If committee hearings are to be held, I want to hear something about the Dixon-Yates contract, which I supported only a few months ago. I have been reading and hearing comments about that contract, and I should like to hear a discussion of the subject.

I understand also that some very important nominations have been received today. What does the Senate propose to do with respect to them? My colleague, the distinguished senior Senator from North Dakota [Mr. LANGER], who is chairman of the Committee on the Judiciary, knows that the investigation of nominations requires considerable time on the part of every member of the committee.

In conclusion, I say again that I do not desire to delay the procedure of the Senate. I am one Member who has sat the clock out on little, trivial matters.

I think the Senate of the United States owes the duty to the marine heroes of Iwo Jima to attend the unveiling of the monument to their memory on Wednesday. We have all been personally invited by General Shepherd, the Commandant of the Marine Corps, to attend. I think the Senate should consider that, and that certainly we can take time off to be present at that event.

I shall not delay the Senate. I shall be in attendance as long as any other Senator is.

The regular order should be followed.

Mr. CASE. Mr. President, will the Senator from California yield?

Mr. KNOWLAND. I yield.

Mr. CASE. I desire to make a parliamentary inquiry.

The VICE PRESIDENT. The Senator from South Dakota will state it.

Mr. CASE. Is a report before the Senate until it is presented? I note that the last part of the language of the motion relating to Senate Resolution 301 reads as follows:

> And that the committee be instructed to act and to make a report to this body prior to the adjournment sine die of the Senate in the second session of the 83d Congress.

Is there any report on which to act until it has been presented to the Senate?

The VICE PRESIDENT. Until the report shall be filed with the Senate, there is nothing officially before the Senate. The report, of which the present occupant of the chair has a copy in his hand, is a committee print which was issued by the committee for the information of the Members of the Senate, the press, and others. It is not, however, officially before the Senate at this time.

Mr. McCARTHY. Mr. President, will the Senator from California yield?

Mr. KNOWLAND. I yield.

Mr. McCARTHY. Reserving the right to object, and I do not intend to object to the request which the Senator has made, the Senator from Utah [Mr. WATKINS] has just informed me—and if I am incorrect in my understanding, he may correct me—that he knew of the deletions which had been made, that he knew of the obvious error that had been made, but he refuses to tell me what the obvious error is that was deleted. He tells me that he intends to ask to have presented today a committee report which is different from the one which I have been working on for months, which is different from the one the Vice President holds in his hand. I think that in common decency and common honesty, so long as the Senator from Utah knows what the obvious error is which has been deleted, he should tell the Senate. I should like to know whether it is an error in fact or in law.

I have gone over the report many times, and I have observed a great many obvious errors. I should like to know what obvious error it is that the chairman of the committee intends to delete. There is no reason on earth why he should not tell the Senate now what obvious error he proposes to delete. It should not be necessary for me to have to search all through the report to ascertain which of the obvious errors he has deleted.

Mr. WATKINS. Mr. President, will the Senator yield?

Mr. KNOWLAND. I yield.

Mr. WATKINS. As soon as the report is filed, I take it that the clerk will permit the junior Senator from Wisconsin to examine it. We have only one other copy. I will send to my office for it and have it delivered here promptly.

Mr. KNOWLAND. Merely to clarify the matter, is the report, which the Senator from Utah now proposes to file, in its final form?

Mr. WATKINS. The report itself is in its final form. The only thing which it was desired to do was to prepare an amendment to Senate Resolution 301.

Mr. KNOWLAND. That resolution would not have to be reported until tomorrow or Wednesday.

Mr. WATKINS. That is correct.

Mr. KNOWLAND. The Senator is not now proposing to file a report based on the text of the committee print. What he is proposing to submit is not the exact text of the committee print, but it is substantially so. He is not asking that he be permitted to file a report today, and then to make some amendments to the report hereafter, is he?

Mr. WATKINS. No.

Mr. KNOWLAND. The report which the Senator is proposing to file will be the official report of the committee.

Mr. WATKINS. As I understand, there can be no report until it is filed, and there has been no report up to today.

Mr. McCARTHY. Mr. President, will the Senator yield?

Mr. WATKINS. I yield the floor.

Mr. KNOWLAND. I yield to the Senator from Wisconsin.

Mr. McCARTHY. The Senator from Utah is aware of the obvious error that has been deleted——

Mr. WATKINS. Certainly; I would know about it.

Mr. McCARTHY. Let me finish. He has told me he is going to ask to have the report filed today. If the deletions have been made, why does not the Senator, in all honesty, tell us now what the obvious error was that was deleted? There is no reason why the Senator should not tell us what the error was.

Mr. WATKINS. The simple reason is that there is not anything before the Senate at the present time, and will not be until the report is filed.

Mr. McCARTHY. Why the secret?

Mr. WATKINS. It is no secret.

Mr. KNOWLAND. Mr. President, with due respect to my colleagues, I should like to say that just as soon as the report is filed, it will be public. It will be printed, will be available to the Senate,

will be an official Senate report, and will then be before the Senate.

Mr. McCARTHY. Mr. President, reserving the right to object, we have a fantastic situation on the floor of the Senate. It can be paralleled only by what I saw during the committee hearings. The Senator from Utah says that there were obvious errors in the report. That report was handed to me. I have worked upon that report, as have other Senators, basing a case upon it. The Senator now tells me he is going to ask to have a report filed, after having deleted the obvious errors. He tells me he knows what those obvious errors are. I do not know how we can force him to tell us, but this gives my colleagues some idea of what I had to put up with for days, while this Senator, who keeps secret obvious errors, sat as chairman of the committee.

Mr. WATKINS. Mr. President, will the Senator from California yield?

Mr. KNOWLAND. I shall yield in a moment.

The VICE PRESIDENT. The Senator from California has the floor.

Mr. KNOWLAND. I think the orderly procedure would be to proceed so that all Senators could have copies of the report. Then we ourselves can determine whether there has been any material change, or anything other than typographical errors, or just how substantial the change is. The orderly procedure would be to have the report filed, as is required under the motion which created the committee in the first place.

I wish to say, in all fairness to the members of the committee, that no member of the committee, on either side of the aisle, asked to be selected to serve on the committee. The committee was set up under a resolution of the Senate. The members of the committee have performed their duty. The Senate is going to have an opportunity to see the report and hear the debate. There will certainly be no effort to foreclose discussion. The Senator from Wisconsin and other Senators will have a fair and full opportunity to go into the matter and debate it. As I said before, I hope all Senators will follow the debate. However, I hope, in the interest of orderly procedure in the Senate, that the report may be filed. Under the resolution, the report could be filed at any time up to December 24, I think the date is. The committee has determined to file it today. I do not think that unanimous consent is required; I believe the committee can file the report when it is ready. When it is filed, it will be a public document. It will be printed as expeditiously as possible. It will be available to the Members of the Senate, to the press, and to the country. Then, when the Senate takes up the matter, it can be discussed by Senators who desire to speak.

Mr. CHAVEZ. Mr. President, will the Senator yield?

Mr. KNOWLAND. I yield to the Senator from New Mexico.

Mr. CHAVEZ. I think what has been occurring in the Senate brings the Senate and the Congress of the United States into disrepute, not only throughout the country, but throughout the world. We have been hearing about this matter by television and radio, and have been reading about it in the newspapers, and I am ready to vote at this time. However, if it is necessary to the program of the majority leader that the filing of the report go over until Wednesday, what difference would it make if it did?

Mr. KNOWLAND. I say to the Senator from New Mexico that I am not ready to vote, because I believe it is desired that arguments be made, and I hope the Senator has not foreclosed consideration of the facts which may be presented.

Mr. CHAVEZ. No; I have not foreclosed consideration of the facts which may be presented, but I do desire that the Senate do something else besides listen to debate on the resolution. There is plenty of work to be done.

Mr. WELKER. Mr. President, will the Senator from California yield so that I may ask a question of the Senator from New Mexico?

Mr. KNOWLAND. I yield to the Senator from Idaho.

Mr. WELKER. My distinguished colleague from New Mexico made the statement that he is ready to vote now. I should like to ask him if he has read the 940 pages of testimony and documentary evidence, resulting in the report, which we now find is not final.

Mr. CHAVEZ. I have not read the report.

Mr. WELKER. Then certainly the Senator would not want to go on record as saying that he is ready to vote.

Mr. CHAVEZ. I have seen reports that are extremely thick which have not been read by Members of this body. I have been a Member of Congress for 24 years. I do not have any objection to hearing the debate, but I think the Senate is spending too much time on the whole matter.

I should like to ask the Senator from Idaho how many committee reports he has read. Members of committees may listen to the testimony taken before a committee, but I do not think that many committee reports are read. A member of a committee usually relies on what he remembers as a member in the jury box. Is that not correct?

Mr. WELKER. That may be correct. The resolution in the instant case is only the fourth such resolution on which Members of the Senate have been asked to sit as a jury, and I am sure that it is desired that every Senator read everything and hear everything relating to the inquiry.

Mr. CHAVEZ. That is correct.

Mr. WELKER. I agree with the Senator that we should do our work as expeditiously as possible.

Mr. CHAVEZ. I do not like to hear the word "decency" used in the Senate. There are 96 Senators, and they are all decent. Nor do I like to hear the word "dishonesty" used. I believe every Senator is honest. We might differ in conclusions. We might look at things from a different standpoint, and make different interpretations. However, if my opinions were different from those of another Senator, that fact would not lead me to think of him as being dishonest. I do not think such terms should be used in the Senate.

Mr. WELKER. I may say to my friend that I think every Senator who is accused should be given an opportunity to be judged by a jury of his peers, regardless of the State from which he comes.

Mr. CHAVEZ. I attended a very fine law school, one which is highly respectable. I practiced law. I invite my colleague to go to the United States courts or to the local district courts in New Mexico and ascertain whether or not I represented my constituents well, and whether they approved of my actions.

Mr. WELKER. I am sure the Senator from New Mexico has their approval.

Mr. CHAVEZ. I think a Member of the Senate who is accused should be judged by a jury of his peers; but, so far as the Senate is concerned, I believe the sooner we get the report and take action the better it will be for the country.

Mr. KNOWLAND. Mr. President, I understand the Senator from Utah has a report to be sent to the desk.

Mr. McCARTHY. Mr. President, does it require unanimous consent that the request be agreed to?

Mr. KNOWLAND. No; it does not.

Mr. McCARTHY. If objection is made to the filing of the report, may it nevertheless be filed?

Mr. KNOWLAND. My understanding is it does not require unanimous consent.

Mr. McCARTHY. But it can be filed despite any objection?

Mr. KNOWLAND. Yes.

Mr. McCARTHY. Is my understanding also correct that the filing of the report does not represent Senate approval or disapproval of it?

Mr. KNOWLAND. I do not interpret the filing of the report to connote either approval or disapproval. Filing the report is merely carrying out the responsibility of the committee.

Mr. McCARTHY. Mr. President, again reserving the right to object, I wonder whether the Senator from Utah will tell me sometime today whether he will point out what he calls the obvious error which he deleted. If he will do that, we can dispose of this matter now. But in common decency, I think the Senator from Utah should tell me which of the errors have been deleted; otherwise I shall have to compare both reports and search through them again. The time between now and tomorrow morning is short, and I have a great deal of work to do. There is no reason why the Senator from Utah should keep that secret from me.

Mr. KNOWLAND. If the distinguished Senator from Utah, as chairman of the select committee, has an additional copy of the report or can get an additional copy to turn over to the Senator from Wisconsin, I believe that would be advisable, and I would hope that he would do so. I understand that the report will be filed. We shall obtain a rush order to the printer to have the printing of the report expedited as much as possible. But if it would be possible to extend to the Senator from Wisconsin the

courtesy to which I have referred, I hope it will be done.

Mr. WATKINS. Nearly 30 minutes ago I offered to send for the only other copy we have.

Mr. KNOWLAND. Is that the one now on the desk of the Senator from Utah?

Mr. WATKINS. Yes.

Mr. KNOWLAND. Will he give it to the Senator from Wisconsin?

Mr. WATKINS. Yes; at once.

Mr. McCARTHY. Mr. President, reserving the right to object, that does not answer the question. This document comprises 72 pages. I have between now and tomorrow morning to go through the entire document and compare it with the original one which was handed to me, in order to find out which of the obvious errors has been deleted. The Senator from Utah has told me that he knows what these errors are. Why does he not mark them for me?

Mr. WATKINS. They are marked in this copy.

Mr. JOHNSON of Texas. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. PAYNE in the chair). The Senator from Texas will state it.

Mr. JOHNSON of Texas. What is the pending question?

The PRESIDING OFFICER. There is no pending question.

Mr. JOHNSON of Texas. Then, Mr. President, I request the regular order.

Mr. WATKINS. Mr. President, I request recognition.

Mr. KNOWLAND. Mr. President, I have requested unanimous consent for the customary morning hour. I shall withdraw that request, and I shall not make it again until tomorrow morning, at which time we shall see whether we can have a morning hour.

Mr. WATKINS. Mr. President, I send to the desk a report by the Select Committee on Senate Resolution 301. It has already been discussed, and it has been pointed out that we are not quite ready for the printing of the amendments to the resolution itself; otherwise the report is complete.

Mr. KNOWLAND. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from California will state it.

Mr. KNOWLAND. Has the report of the select committee been filed with the Senate?

The PRESIDING OFFICER. The report has been filed.

Mr. KNOWLAND. Very well.

Mr. McCARTHY. Mr. President, I ask unanimous consent that during the debate on the censure motion, my attorney, Mr. Edward Williams, be permitted to sit with me in the Senate Chamber.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. JOHNSON of Texas. Mr. President, reserving the right to object, I did not hear the request; at the time it was made, I was engaged in conversation. Will the Chair please restate the request?

The PRESIDING OFFICER. The Senator from Wisconsin has requested unanimous consent that during the debate on the censure motion, his counsel be permitted to sit with him in the Senate Chamber.

Mr. JOHNSON of Texas. I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. KNOWLAND. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CAPEHART. Mr. President, I hold in my hand the report which has been corrected by the able Senator from Utah [Mr. WATKINS] and his committee. In the report numerous changes have been made, as compared with the committee print which for several days has been in the hands of every Senator.

I ask unanimous consent that the copy of the report I now hold in my hand, being the old report, as corrected, be printed to show the corrections or the changes which have been made in the report as filed today, as compared with the one which has been in the hands of Senators.

Mr. KNOWLAND. Reserving the right to object, let me inquire whether the Senator from Indiana means that the corrected report should be printed in the CONGRESSIONAL RECORD.

Mr. CAPEHART. Yes.

Mr. CASE. Mr. President, reserving the right to object, let me say to the distinguished Senator from Indiana that I think to do that would make the RECORD cumbersome. Most of the changes are grammatical corrections. There is only one change of any substance. I have already personally pointed it out to the Senator from Wisconsin [Mr. McCARTHY].

I think the changes themselves should be shown in the RECORD; that would be helpful.

Mr. CAPEHART. I am anxious to have only one thing accomplished, namely, to have the changes which have been made in the report being filed today, as compared with the committee print, so designated in the CONGRESSIONAL RECORD that one who reads the RECORD will be able to see immediately exactly what changes have been made.

Mr. CASE. I believe that should be done; the changes from the committee print, in arriving at the complete report, should be made available to every Member of the Senate. But it does not seem to me that it is necessary to print the entire report in the CONGRESSIONAL RECORD, for the report comprises many pages.

Mr. CAPEHART. Then, Mr. President, I amend my unanimous consent request, by asking that wherever changes occur, they be printed in the CONGRESSIONAL RECORD, and that the RECORD show both the old language and the new language.

Mr. KNOWLAND. Will the Senator from Indiana include in his request a further request that the pages on which changes or corrections have been made be shown?

Mr. CAPEHART. Yes; I include that additional request.

Mr. WATKINS. Mr. President, I should like to ask unanimous consent that the entire report be printed in the CONGRESSIONAL RECORD, and that the RECORD also show any changes which were made, as compared with the committee print, which was never a report.

Mr. CAPEHART. That is exactly my request.

Mr. WATKINS. I understand so, but I want all of it printed, because it will give information immediately in the morning to all Members of this body. There is nothing to hide; we are glad to stand on the report as made. No such report existed until I filed it. So let us have all of it made available.

Mr. CAPEHART. My request was that it be printed; and the able Senator from Utah has now suggested that that be done.

The only reason why I requested that it be printed is that it is different from the original committee print.

Mr. WATKINS. Slightly different.

Mr. CAPEHART. Yes; I so understand; and I take the Senator's word for it. But I think it should be printed in the CONGRESSIONAL RECORD, so that tomorrow morning each Senator will be able to see exactly what changes have been made.

Mr. KNOWLAND. I think the suggestion is a good one.

Mr. CAPEHART. So, Mr. President, in line with the suggestion of the chairman of the committee that the entire report be printed in the RECORD, I amend my unanimous-consent request so as to request that the entire committee report be printed in the CONGRESSIONAL RECORD, to show the changes which have been made in the final report as filed today.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Indiana?

Mr. WATKINS. Mr. President, reserving the right to object, let me say I heartily join in that request; in fact I had intended a little later to ask that the entire report be printed.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Indiana?

There being no objection, the report (No. 2508) was ordered to be printed in the RECORD, as follows:

[83d Cong., 2d sess.]

[S. Rept. No. 2508]

REPORT ON RESOLUTION TO CENSURE

(November 8, 1954.—Ordered to be printed)

(Mr. WATKINS, from the Select Committee To Study Censure Charges, submitted the following report to accompany S. Res. 301:)

The Select Committee To Study Censure Charges, consisting of ARTHUR V. WATKINS (chairman), EDWIN C. JOHNSON (vice chairman), JOHN C. STENNIS, FRANK CARLSON, FRANCIS CASE, SAM J. ERVIN, JR., to which was referred the resolution (S. Res. 301) and amendments, having considered the same, reports thereon and recommends that the resolution be adopted with certain amendments.

INTRODUCTION

On August 2 (legislative day, July 2), 1954, Senate Resolution 301, to censure the Senator from Wisconsin, Mr. MCCARTHY, submitted by Senator FLANDERS on July 30, and amendments proposed thereto, was referred to a select committee to be composed of 3

Republicans and 3 Democrats and named by the Vice President. By said order the select committee was authorized—

(1) To hold hearings;

(2) To sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate;

(3) To require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, and to take such testimony as is deemed advisable.

The select committee was instructed to act and to make a report to the Senate prior to the adjournment sine die of the Senate in the 2d session of the 83d Congress.

The order of the Senate is set forth in the hearing record, page 1 et seq.

The Vice President, on August 5, 1954, acting on the recommendations of the majority leader and the minority leader, made the following appointments of members of the select committee: From the majority, the Senator from Utah (Mr. WATKINS), the Senator from Kansas (Mr. CARLSON), and the Senator from South Dakota (Mr. CASE). From the minority, the Senator from Colorado (Mr. JOHNSON), the Senator from Mississippi (Mr. STENNIS), and the Senator from North Carolina (Mr. ERVIN). The select committee chose the Senator from Utah (Mr. WATKINS) as chairman, and the Senator from Colorado (Mr. JOHNSON) as vice chairman.

The select committee, on August 24, 1954, served upon the junior Senator from Wisconsin, and other interested persons, a notice of hearings, setting forth 5 categories containing 13 specifications of charges from certain of the proposed amendments, establishing the general procedural rules for the hearings before the select committee, and formally requesting the appearance of Senator MCCARTHY. The notice of hearings will be found in the hearing record, page 8.

All testimony and evidence taken and received by the select committee was at public hearings attended by Senator MCCARTHY and his counsel, *except the opinion of the Senate Parliamentarian which was obtained pursuant to Senator McCarthy's request.* [No testimony or evidence was taken or received in executive session, except the testimony of the Parliamentarian, which was taken with the knowledge and consent of the attorney for Senator MCCARTHY.] The public hearings were held in accordance with said notice of hearings, on August 31, September 1, 2, 7, 8, 9, 10, 11, and 13, 1954. The entire testimony, evidence, and proceedings at said public hearings [is] *are* in the printed record of the hearings. [and made part of this report by reference.]

At the commencement of the hearings, on August 31, 1954 (p. 11 of the hearings), the chairman stated:

"STATEMENT OF PURPOSES OF COMMITTEE MADE AT COMMENCEMENT OF HEARING

"Now, at the outset of this hearing, the committee desires to state in general terms what is involved in Senate Resolution 301 and the Senate order on it, which authorized the appointment of the select committee to consider in behalf of the Senate the so-called Flanders resolution of censure, together with all amendments proposed in the resolution.

"The committee, in the words of the Senate order was 'authorized to hold hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate, to require by subpena, or otherwise, the attendance of such witnesses and the production of such correspondence, books, papers, and documents, and to take such testimony as it deems advisable, and that the committee be instructed to act and make a report to this body prior to the adjournment sine die of the Senate in the second session of the 83d Congress.'

"That is a broad grant of power, carrying with it a heavy responsibility—a responsibility which the committee takes seriously. In beginning its duties, the committee found few precedents to serve as a guide. It is true that there had been other censure resolutions before the Senate in the past, but the acts complained of were, for the most part, single occurrences which happened in the presence of the Senate or one of its committees. Under such circumstances, prolonged investigations and hearings were not necessary.

"It should be pointed out that some forty-and-odd alleged instances of misconduct on the part of Senator MCCARTHY referred to this committee are involved and complex, both with respect to matters of fact and law. With reference to the time element, the incidents are alleged to have happened within a period covering several years. In addition, 3 Senate committees already have held hearings on 1 or more phases of the alleged incidents of misconduct. Obviously, with all this in mind, the committee had good reason for concluding it faced an unprecedented situation which would require adoption of procedures, all within the authority granted it in the Senate order, that would enable it to perform the duties assigned within the limited time given by the Senate.

"The committee interprets its duties, functions, and responsibilities under the Senate order to be as follows:

"1. To analyze the charges set forth in the amendments and to determine—

"(a) If there were duplications which could be eliminated.

"(b) If any of the charges were of such a nature that even if the allegations were established as factually true, yet there would be strong reasons for believing that they did not constitute a ground for censure.

"2. To thoroughly investigate all charges not eliminated under No. 1 in order to secure relevant and material facts concerning them and the names of witnesses or records which can establish the facts at the hearings to be held.

"In this connection the committee believes it should function as an impartial investigating agency to develop by direct contacts in the field and by direct examination of Senate records all relevant and material facts possible to secure.

"When Senate Resolution 301 and amendments offered were referred to the committee, the committee interprets this action to mean that from that time on the resolution and charges became the sole responsibility of the Senate. To state it another way, the Senator, or Senators, who offered Resolution 301, and proposed amendments thereto, have no legal responsibility from that point on for the conduct of the investigations and hearings authorized by the order of the Senate. The hearings are not to be adversary in character. Under this interpretation, it became the committee's duty then to get all the facts and material relevant to the charges irrespective of whether the facts sustained the charges or showed them to be without foundation.

"The foregoing statement seems to be necessary in view of a widespread misunderstanding that the Senator who introduced the resolution of censure into the Senate and the Senators who offered amendments thereto, setting up specific charges against the Senator from Wisconsin, are the complaining witnesses, or the parties plaintiff, in this proceeding. That is not true, as has been explained. However, because of the fact that they had made some study of the situation, the committee did give them an opportunity to submit informational documentation of the charges they had offered. Also they were asked to submit the names of any witnesses who might have firsthand knowledge of the matters charged and who could give relevant and material testimony in the hearings.

"Since matters of law also will be involved in reaching evaluation of the facts developed, pertinent rules of the Senate and sections of of law, together with precedents and decisions by competent tribunals, should be briefed and made a part of the hearing record, the committee believes.

"3. To hold hearings where the committee can present witnesses and documentary evidence for the purpose of placing on record, for later use by the Senate, the evidence and other information gathered during the preliminary investigation period, and for the development of additional evidence and information as the hearings proceed.

"The resolution of censure presents to the Senate as issue with respect to the conduct and possible punishment of one of its Members. The debate in the Senate preceding the vote to refer the matter to a select committee made it abundantly clear that the proceedings necessary to a proper disposal of the resolution and the amendments proposed, both in the Senate and in the select committee, would be judicial or quasi-judicial in nature, and for that reason should be conducted in a judicial manner and atmosphere, so far as compatible with the investigative functions of the committee in its preliminary and continuing search for evidence and information bearing on all phases of the issues presented.

"Inherent in the situation created by the resolution of censure and the charges made, is the right of the Senator against whom the charges were made to be present at the hearings held by the select committee. He should also be permitted to be represented by counsel and should have the right of cross-examination. This is somewhat contrary to the practice by Senate committees in the past, in hearings of this nature, but the present committee believes that the accused Senator should have these rights. He or his counsel, but not both, shall be permitted to make objections to the introduction of testimony, but the argument on the objections may be had or withheld at the discretion of the chairman. The Senator under charges should be permitted to present witnesses and documentary evidence in his behalf, but, of course, this should be done in compliance with the policy laid down by the committee in its notice of hearing, which is a part of this record.

"In general, the committee wishes it understood that the regulations adopted are for the purpose of insuring a judicial hearing and a judicial atmosphere as befits the importance of the issues raised. For that reason, and in accordance with the order the committee believes to be the sentiment of the Senate, all activities which are not permitted in the Senate itself will not be permitted in this hearing.

"4. When the hearings have closed, to prepare a report and submit it to the Senate. Under the order creating this committee, this must be done before the present Senate adjourns sine die.

"By way of comment, let me say that the inquiry we are engaged in is of a special character which differentiates it from the usual legislative inquiry. It involves the internal affairs of the Senate itself in the exercise of a high constitutional function. It is by nature a judicial or semijudicial function, and we shall attempt to conduct it as such. The procedures outlined are not necessarily appropriate to congressional investigations and should not, therefore, be construed as in any sense intended as a model appropriate to such inquiries. We hope what we are doing will be found to conform to sound senatorial principles and traditions in the special field in which the committee is operating.

"It has been said before, but it will do no harm to repeat, that the members of this committee did not seek this appointment. The qualifications laid down by the Senate order creating the commission, said the committee should be made up of 3 Democrat Senators and 3 Republican Senators. This

was the only condition named in the order. However, in a larger sense the proper authorities of the Senate were charged with the responsibility of attempting to choose Members of the Senate for this committee who could and would conduct a fair and impartial investigation and hearing. Members of the committee deemed their selection by the Senate authorities as a trust.

"We realize we are human. We know, and the American people know, that there has been a controversy raging over the country through a number of years in connection with the activities of the Senator against whom the resolution is directed. Members of this committee have been conscious of that controversy; they have seen, heard, and read of the activities, charges, and countercharges, and being human, they may have at times expressed their impressions with respect to events that were happening while they were happening.

"However, each of the Senators who make up this special select committee are mature men with a wide background of experience which should enable them to disregard any impressions or preconceived notions they may have had in the past respecting the controversies which have been going on in public for many years.

"We approach this matter as a duty imposed upon us and which we feel that we should do our very best to discharge in a proper manner. We realize the United States Senate, in a sense, is on trial, and we hope our conduct will be such as to maintain the American sense of fair play and the high traditions and dignity of the United States Senate under the authority given it by the Constitution."

As the investigations and the hearings progressed, the committee found that the period of time allotted to perform the task assigned would not be sufficient if all the charges were given thorough investigation and hearings were held thereon. The committee also was aware of the practical situation that required that its task be completed sufficiently early to permit the Senate to consider its report before that body must adjourn sine die.

"PROCEDURE FOR COMMITTEE HEARINGS ESTABLISHED IN NOTICE OF HEARINGS

"All testimony and evidence received in the hearings shall be such as is found by the select committee to be competent, relevant, and material to the subject matters so under inquiry, with the right of examination and cross-examination, in general conformity to judicial proceedings and in accordance with said order of the Senate.

"The select committee will admit, subject to said order, as competent testimony for the record, so far as material and relevant, the official proceedings and pertinent actions of the Senate and of any of its committees or subcommittees, taking judicial notice thereof, and using official reprints when convenient. Following Senate tradition, witnesses may be examined by any member of the committee, and they may be examined or cross-examined for the committee by its counsel. Witnesses may be examined or cross-examined either by Senator McCARTHY or his counsel, but not by both as to the same witness."

Senator McCARTHY was permitted to and made an opening statement in his own behalf at the commencement of the first hearing, on condition that it be relevant and material, and not to be received as testimony (hearing record, p. 14).

By unanimous vote of the members of the select committee taken after the issuance of the notice of hearings, it was decided to proceed with hearings only upon the 13 specifications set forth in the 5 categories contained in the notice of hearings, to which reference is hereby made (hearing record, p. 8).

I

Category I. Incidents of contempt of the Senate or a senatorial committee

A. General Discussion and Summary of Evidence

The evidence on the question whether Senator McCARTHY was guilty of contempt of the Senate or a senatorial committee involves his conduct with relation to the Subcommittee on Privileges and Elections of the Senate Committee on Rules and Administration. An analysis of the three amendments referring to this general matter (being amendment (3) proposed by Senator FULBRIGHT, amendment (a) proposed by Senator MORSE, and amendment (17) proposed by Senator FLANDERS) reveals these specific charges:

(1) That Senator McCARTHY refused repeated invitations to testify before the subcommittee.

(2) That he declined to comply with a request by letter dated November 21, 1952, from the chairman of the subcommittee to appear to supply information concerning certain specific matters involving his activities as a Member of the Senate.

(3) That he denounced the subcommittee and contemptuously refused to comply with its request.

(4) That he has continued to show his contempt for the Senate by failing to explain in any manner the six charges contained in the Hennings-Hayden-Hendrickson report, which was filed in January 1953.

We have decided to consider and discuss in our report under this category the incident with reference to Senator HENDRICKSON, since the conduct complained of is related directly to the fact that Senator HENDRICKSON was a member of the Subcommittee on Privileges and Elections. This incident is referred to in the amendment proposed by Senator FLANDERS (30), the specific charge being:

(5) That he ridiculed and defamed Senator HENDRICKSON in vulgar and base language, calling him: "A living miracle without brains or guts."

The report referred to as the Hennings-Hayden-Hendrickson report is the report of the Subcommittee on Privileges and Elections to the Committee on Rules and Administration, pursuant to Senate Resolution 187, 82d Congress, 1st session, and Senate Resolution 304, 82d Congress, 2d session, filed January 2, 1953, *and appears on part II of the hearing record* [made part of this report and printed in the appendix]. The select committee admitted in evidence the Hennings-Hayden-Hendrickson report for the limited purposes of showing the nature of the charges before that subcommittee, as bearing upon the question of jurisdiction of that subcommittee, and what was the subject matter of the investigation (pp. 55, 121, and 524 of the hearings).

As stated by the chairman (p. 17 of the hearings), the select committee did not construe this category as involving in any way the truth or falsity of any of the charges against Senator McCARTHY considered by that subcommittee. These charges, as shown by its report and as stated briefly by the chairman, Senator HENNINGS, in a letter to Senator McCARTHY under date of November 21, 1952 (Hennings-Hayden-Hendrickson report, p. 93), were:

"Pursuant to your request, as transmitted to us through Mr. Kiermas, we are advising you that the subcommittee desires to make inquiry with respect to the following matters:

"(1) Whether any funds collected or received by you and by others on your behalf to conduct certain of your activities, including those relating to 'communism,' were ever diverted and used for other purposes inuring to your personal advantage.

"(2) Whether you, at any time, used your official position as a United States Senator and as a member of the Banking and Currency Committee, the Joint Housing Committee, and the Senate Investigations Committee to obtain a $10,000 fee from the Lustron Corp., which company was then almost entirely subsidized by agencies under the jurisdiction of the very committees of which you were a member.

"(3) Whether your activities on behalf of certain special interest groups, such as housing, sugar, and China, were motivated by self-interest.

"(4) Whether your activities with respect to your senatorial campaigns, particularly with respect to the reporting of your financing and your activities relating to the financial transactions with, and subsequent employment of, Ray Kiermas involved violations of the Federal and State corrupt practices acts.

"(5) Whether loan or other transactions which you had with the Appleton State Bank, of Appleton, Wis., involved violations of tax and banking laws.

"(6) Whether you used close associates and members of your family to secrete receipts, income, commodity, and stock speculations, and other financial transactions for ulterior motives."

The evidence taken by the select committee under this category consisted of letters and documents, oral testimony by Senator McCARTHY and oral testimony by Senator HAYDEN, and by the Parliamentarian. As to the statement regarding Senator HENDRICKSON, there is the testimony of a reporter. There is no material contradiction in any of the testimony relating to this category. The sending and receipt of the correspondence is admitted. There is no contradiction of the verbal testimony of Senator McCARTHY with reference to his conversations with Chairman GILLETTE, or that of Chairman HAYDEN with reference to the constitution of the Subcommittee on Privileges and Elections and the filing of its report, or of that of Parliamentarian Watkins, discussed fully hereinafter.

The evidence shows that the Subcommittee on Privileges and Elections was proceeding to investigate and report on Senate Resolution 187; that Senator McCARTHY was invited to appear to testify before the subcommittee on five separate occasions extending from September 25, 1951, to November 7, 1952, and formally requested to appear by letter and telegram of November 21, 1952; that Senator McCARTHY could not appear at the times specified in the request because of his absence in Wisconsin; that Senator McCARTHY did not appear before the subcommittee in answer to the matters under investigation regarding his own conduct, but did appear on one occasion in support of his Senate Resolution 304 directed against Senator Benton; that Senator McCARTHY accused the subcommittee of acting without power and beyond its jurisdiction, of wasting vast amounts of public money for improper partisan purposes, of proceeding dishonestly, of aiding the cause of communism, and that these accusations were directed toward an official subcommittee of the Senate. The uncontradicted testimony further shows that Senator McCARTHY directed and gave to the press an abusive and insulting statement concerning Senator HENDRICKSON, calculated to wound a colleague, solely because Senator HENDRICKSON was a member of the subcommittee and performing services required by the Senate.

Senate Resolution 187, introduced by Senator Benton, was not voted upon by the Senate, but when the jurisdiction of the Subcommittee on Privileges and Elections and the integrity of its members was attacked, the Senate by its vote of 60 to 0 in Senate Resolution 300, affirmed and ratified both.

Counsel for Senator McCARTHY advanced the contention that these specifications relating to "incidents of contempt of the Senate or a senatorial committee" were legally insufficient on their face as a predicate for

the censure of Senator McCarthy because (1) there has never been a case of censure upon a Member of Congress for conduct antedating the inception of the Congress which is hearing the censure charges (p. 18 of the hearings), and (2) because the subcommittee acted unlawfully and beyond its jurisdiction (pp. 53 to 58 of the hearings).

B. Findings of Fact

From the evidence and testimony taken with reference to the first category, the select committee finds the following facts:

1. On August 6, 1951, Senate Resolution 187, 82d Congress, 1st session, was introduced by Senator Benton and referred to the Committee on Rules and Administration (p. 20 of the hearings).

2. In turn, this resolution was referred by the Committee on Rules and Administration to its Subcommittee on Privileges and Elections (p. 280 of the hearings).

3. This resolution provided, inter alia, that whereas "any sitting Senator, regardless of whether he is a candidate in the election himself, should be subject to expulsion by action of the Senate, if it finds such Senator engaged in practices and behavior that make him, in the opinion of the Senate, unfit to hold the position of United States Senator": Therefore be it

"*Resolved*, That the Committee on Rules and Administration of the Senate is authorized and directed to proceed with such consideration of the report of its Subcommittee on Privileges and Elections with respect to the 1950 Maryland senatorial general election, which was made pursuant to Senate Resolution 250, 81st Congress, April 13, 1950, and to make such further investigation with respect to the participation of Joseph R. McCarthy in the 1950 senatorial campaign of Senator John Marshall Butler, and such investigation with respect to his other acts since his election to the Senate, as may be appropriate to enable such committee to determine whether or not it should initiate action with a view toward the expulsion from the United States Senate of the said Senator Joseph R. McCarthy."

It will be noted that this proposed resolution authorized and directed such investigation as may be appropriate "with reference to his other acts since his election to the Senate."

4. Senator McCarthy was elected to the Senate in the fall of 1946, and took his seat in January 1947.

5. Among the charges pending before and investigated by that Subcommittee on Privileges and Elections, charges (1), (2), (3), and (4) related to matters since Senator McCarthy's election to the Senate in 1946, and charges (5) and (6) may or may not have referred to matters since his election to the Senate, or to matters both before and after his election.

6. Senator Guy M. Gillette was chairman of that Subcommittee on Privileges and Elections until his resignation on September 26, 1952 (p. 22 of the hearings).

7. By letter of Senator McCarthy to Chairman Gillette dated September 17, 1951, Senator McCarthy stated that he intended to appear to question witnesses, and that the subcommittee, without authorization from the Senate, was undertaking to conduct hearings in the matter (p. 280 of the hearings).

8. By letter of September 25, 1951, Chairman Gillette notified Senator McCarthy that the Benton resolution (S. Res. 187) would be taken up by the subcommittee on September 28, 1951, and that Senator McCarthy could be present to hear Senator Benton in executive session and make his own statement also, if time permitted (p. 23 of the hearings).

9. Senator McCarthy did not reply to this letter.

10. By letter of October 1, 1951, Chairman Gillette advised Senator McCarthy that Senator Benton had appeared and presented a statement in support of his resolution looking to action pertaining to the expulsion of Senator McCarthy from the Senate, that the subcommittee had taken action to accord to Senator McCarthy the opportunity to appear and make any statement he wished to make concerning the matter, and that the subcommittee "will be glad to hear you at an hour mutually convenient" before the 10th of October, if Senator McCarthy desired to appear (p. 23 of the hearings).

11. Under date of October 4, 1951, Senator McCarthy wrote to Chairman Gillette, in reply to the latter's letter of October 1, 1951, that "I have not and do not even intend to read, much less answer, Benton's smear attack" (p. 23 of the hearings).

12. By letter of December 6, 1951, Senator McCarthy advised Chairman Gillette (p. 24 of the hearings)—

(a) That the "Elections Subcommittee, unless given further power by the Senate, is restricted to matters having to do with elections."

(b) That "a horde of investigators hired by your committee at a cost of tens of thousands of dollars of taxpayers' money has been engaged exclusively in trying to dig up on McCarthy material covering periods of time long before he was even old enough to be a candidate for the Senate—material which can have no conceivable connection with his election or any other election."

(c) That the "obvious purpose is to dig up campaign material for the Democratic Party for the coming campaign against McCarthy."

(d) That "when your elections subcommittee, without Senate authorization, spends tens of thousands of taxpayers' dollars for the sole purpose of digging up campaign material against McCarthy, then the committee is guilty of stealing just as clearly as though the Members engaged in picking the pockets of the taxpayers and turning the loot over to the Democrat National Committee."

(e) That "if one of the administration lackies were chairman of this committee, I would not waste the time or energy to write and point out the committee's complete dishonesty."

(f) That instead of obtaining the necessary power from the Senate, "your committee decided to spend tens of thousands of dollars of taxpayers' money to aid Benton in his smear attack upon McCarthy."

(g) That "I cannot understand your being willing to label Guy Gillette as a man who will head a committee which is stealing from the pockets of the American taxpayer tens of thousands of dollars and then using this money to protect the Democrat Party from the political effect of the exposure of Communists in Government."

(h) That "to take it upon yourself to hire a horde of investigators and spend tens of thousands of dollars without any authorization from the Senate is labeling your Elections Subcommittee even more dishonest than was the Tydings committee."

13. Chairman Gillette replied to Senator McCarthy by letter of December 6, 1951 (p. 26 of the hearings), stating that the subcommittee did not seek its unpleasant task, but that since Senate Resolution 187 was referred by the Senate to the Committee on Rules and Administration, and by it to its Subcommittee on Privileges and Elections, its duty was clear and would be discharged "in a spirit of utmost fairness to all concerned and to the Senate."

14. In the same letter, Chairman Gillette informed Senator McCarthy, "your information as to the use of a large staff and the expenditure of a large sum of money in investigations relative to the resolution is, of course, erroneous."

15. By letter from Senator McCarthy to Chairman Gillette dated December 7, 1951, information was requested of the number and salaries of employees of the subcommittee (p. 26 of the hearings).

16. Chairman Gillette gave this information to Senator McCarthy under date of December 11, 1951 (p. 27 of the hearings).

17. Under date of December 19, 1951, Senator McCarthy wrote to Chairman Gillette stating that: "the full committee appointed you chairman of an elections subcommittee, but gave you no power whatsoever to hire investigators and spend vast amounts of money to make investigations having nothing to do with elections. Again, may I have an answer to my questions as to why you feel you are entitled to spend the taxpayers' money to do the work of the Democratic National Committee" (p. 27 of the hearings).

18. In the same letter, Senator McCarthy stated: "You and every member of your subcommittee who is responsible for spending vast amounts of money to hire investigators, pay their traveling expenses, etc., on matters not concerned with elections, is just as dishonest as though he or she picked the pockets of the taxpayers and turned the loot over to the Democratic National Committee."

19. In the same letter, Senator McCarthy stated: "I wonder if I might have a frank, honest answer to all the questions covered in my letter of December 7. Certainly as a member of the Rules Committee and as a Member of the Senate, I am entitled to this information. Your failure to give this information highlights the fact that your subcommittee is not concerned with dishonestly spending the taxpayers' money and using your subcommittee as an arm of the Democratic National Committee" (p. 28 of the hearings).

20. On December 21, 1951, Chairman Gillette wrote Senator McCarthy, advising him as follows:

(a) "I shall be very glad to give you such information as I have or go with you, if you so desire, to the rooms occupied by the subcommittee and aid you in securing any facts that are there available, relative to the employees of the subcommittee or their work," and stating further that—

(b) Previous correspondence had been printed in the public press, even before receipt by Chairman Gillette.

(c) That it was improper to discuss matters pertaining to pending litigation in the public press.

(d) That a meeting of the subcommittee was being called for January 7, 1952, to consider the Benton resolution.

(e) That if Senator McCarthy cared to appear before the subcommittee, he would be glad to make the necessary arrangements as to time and place.

(f) That he would be glad to confer with Senator McCarthy personally as to matters concerning the staff and the work of the subcommittee.

(g) That neither the Democratic National Committee nor any person or group other than an agency of the United States Senate has had or will have any influence on his duties and actions as a member of the subcommittee, and that no other member of the subcommittee has been or will be so influenced (p. 28 of the hearings).

21. Senator McCarthy wrote to Chairman Gillette on January 4, 1952, asking: "The simple question of whether or not you have ordered the investigators to restrict their investigation to matters having to do with elections, or whether their investigations extend into fields having nothing whatsoever to do with either my election or the election of any other Senator" (p. 29 of the hearings).

22. Chairman Gillette replied to Senator McCarthy by letter dated January 10, 1952, informing him that the staff of the subcommittee had just submitted a report on the legal question raised by Senator McCarthy, that this was being studied, and the subcommittee would then determine what ac-

tion, if any, they would take (p. 29 of the hearings).

23. Because Senator McCarthy questioned the jurisdiction of the subcommittee, the subcommittee adopted a resolution, approved by a majority of the Committee on Rules and Administration, that Senator McCarthy be requested to bring to the floor of the Senate a motion to discharge the Subcommittee on Privileges and Elections (p. 30 of the hearings).

24. Senator Hayden, chairman of the Committee on Rules and Administration, informed Senator McCarthy that the purpose would be to test the jurisdiction and integrity of the members of the subcommittee (p. 30 of the hearings).

25. Under date of March 21, 1952, Senator McCarthy wrote to Senator Hayden, chairman of the parent Committee on Rules and Administration, that he thought it improper to discharge the subcommittee for the following reasons:

"The Elections Subcommittee unquestionably has the power and, when complaint is made, the duty to investigate any improper conduct on the part of McCarthy or any other Senator in a senatorial election.

"The subcommittee has spent tens of thousands of dollars and nearly a year making the most painstaking investigation of my part in the Maryland election, as well as my campaigns in Wisconsin. The subcommittee's task is not finished until it reports to the Senate the result of that investigation, namely, whether they found such misconduct on the part of McCarthy in either his own campaigns or in the Tydings campaign to warrant his expulsion from the Senate.

"I note the subcommittee's request that the integrity of the subcommittee be passed upon. As you know, the sole question of the integrity of the subcommittee concerned its right to spend vast sums of money investigating the life of McCarthy from birth to date without any authority to do so from the Senate. However, the vote on that question cannot affect the McCarthy investigation, in that the committee for a year has been looking into every possible phase of McCarthy's life, including an investigation of those who contributed to my unsuccessful 1944 campaign.

"As you know, I wrote Senator Gillette, chairman of the subcommittee, that I considered this a completely dishonest handling of taxpayers' money. I felt that the Elections Subcommittee had no authority to go into matters other than elections unless the Senate instructed it to do so. However, it is obvious that insofar as McCarthy is concerned this is now a moot question, because the staff has already painstakingly and diligently investigated every nook and cranny of my life from birth to date. Every possible lead on McCarthy was investigated. Nothing that could be investigated was left uninvestigated. The staff's scurrilous report, which consisted of cleverly twisted and distorted facts, was then 'leaked' to the left-wing elements of the press and blazoned across the Nation in an attempt to further smear McCarthy.

"A vote of confidence in the subcommittee would be a vote on whether or not it had the right, without authority from the Senate, but merely on the request of one Senator (in this case Senator Benton) to make a thorough and complete investigation of the entire life of another Senator. A vote to uphold the subcommittee would mean that the Senate accepts and approves this precedent and makes it binding on the Elections Subcommittee in the future.

"A vote against the subcommittee could not undo what the subcommittee has done in regard to McCarthy. It would not force the subcommittee members to repay into the Treasury the funds spent on this investigation of McCarthy. A vote against the subcommittee would merely mean that the Senate disapproves what has already been done insofar as McCarthy is concerned, and therefore, disapproves an investigation of other Senators like the one which was made of McCarthy. While I felt the subcommittee exceeded its authority, now that it has established a precedent in McCarthy's case, the same rule should apply to every other Senator. If the subcommittee brought up this question before the investigation had been made, I would have voted to discharge it. Now that the deed is done, however, the same rule should apply to the other 95 Senators.

"For that reason, I would be forced to vigorously oppose a motion to discharge the Elections Subcommittee at this time.

"I hope the Senate agrees with me that it would be highly improper to discharge the Gillette-Monroney subcommittee at this time, thereby, in effect, setting a different rule for the subcommittee to follow in case an investigation is asked of any of the other 95 Senators" (p. 30 of the hearings).

26. In view of Senator McCarthy's refusal to make the requested motion in the Senate, Chairman Hayden, for himself, and for the other four members of the Subcommittee on Privileges and Elections (Senators Gillette, Monroney, Hennings, and Hendrickson), submitted Senate Resolution 300, 82d Congress, 2d session, on April 8, 1952 (p. 31 of the hearings).

27. Senate Resolution 300 provided that whereas Senator McCarthy in a series of communications addressed to Chairman Gillette between December 6, 1951, and January 4, 1952, had charged that the subcommittee lacked jurisdiction to investigate such acts of Senator McCarthy as were not connected with election campaigns, and attacked the honesty of the members of the subcommittee, charging that in their investigation of such other acts, the members were improperly motivated and were guilty of stealing just as clearly as though the members engaged in picking the pockets of the taxpayers, and whereas the subcommittee adopted a motion, as the most expeditious parliamentary method of obtaining an affirmation by the Senate of its jurisdiction of this matter and a vote on the honesty of its members, that Senator McCarthy be requested to raise the question of jurisdiction and of the integrity of the members of the Subcommittee on Privileges and Elections, by making a formal motion on the floor of the Senate to discharge the committee, and that unless Senator McCarthy did so, the chairman of the Committee on Rules and Administration or the chairman of the subcommittee would present such a motion, and since Senator McCarthy in effect had declined so to do, therefore to determine the proper jurisdiction of the Committee on Rules and Administration and to express the confidence of the Senate in its committee in their consideration of Senate Resolution 187, be it resolved that the Committee on Rules and Administration be, and it hereby is, discharged from the further consideration of Senate Resolution 187 (p. 31 of the hearings).

28. The Senate voted upon this resolution on April 10, 1952, and the resolution was rejected by a vote of 0 to 60, with 36 Members not voting (p. 32 of the hearings).

29. Senator McCarthy is recorded as not voting but he stated in the Senate that he could not wait for the vote and if present would have voted against the discharge of the subcommittee (p. 378 of the hearings).

30. Chairman Gillette wrote to Senator McCarthy on May 7, 1952, fixing May 12, 1952, as the time for public hearing on Senate Resolution 187, informing him that the first charge to be heard would be the matter concerning the Lustron Corp. booklet, and extending to Senator McCarthy "the opportunity to appear at the hearings for the purpose of presenting testimony relating to this charge. The hearings in this case will probably continue for several days, and we shall make whatever arrangements for your appearance as are most convenient for you" (p. 32 of the hearings).

31. Under date of May 8, 1952, Senator McCarthy wrote to Chairman Gillette acknowledging receipt of the letter of May 7, 1952, asking on what point the subcommittee desired information, and giving a statement of facts with reference to the Lustron Corp. booklet, in argumentative fashion, and charging the subcommittee with knowingly allowing itself to serve the Communist cause, and stating:

"The Communists will have scored a great victory if they can convince every other Senator or Congressman that if he attempts to expose undercover Communists he will be subjected to the same type of intense smear, even to the extent of using a Senate committee for the purpose. They will have frightened away from this fight a vast number of legislators who fear the political effect of being inundated by the Communist Party line sewage.

"If you have evidence of wrongdoing on McCarthy's part, which would justify removal from the Senate or a vote of censure by the Senate, certainly you have the obligation to produce it. However, as you well know, every member of your committee and staff privately admits that no such evidence is in existence. It is an evil and dishonest thing for the subcommittee to allow itself to be used for an evil purpose. Certainly the fact that the Democrat Party may temporarily benefit thereby is insufficient justification. Remember the Communist Party will benefit infinitely more" (p. 32 of the hearings).

32. Senator McCarthy again wrote to Chairman Gillette on the same day, May 8, 1952, demanding expeditious action in the Benton case (p. 35 of the hearings).

33. Chairman Gillette wrote to Senator McCarthy under date of May 10, 1952, informing him that the subcommittee had concluded to take testimony on May 12, 1952, and that it was the courteous thing to do to invite him to attend, to present evidence in refutation or explanation, and that the opportunity would continue to be that of Senator McCarthy to present such matter as he might wish in connection with the hearing and to attend if he so desired (p. 43 of the hearings).

34. On May 11, 1952, Senator McCarthy wrote to Chairman Gillette, Senator Monroney, and Senator Hennings jointly, a sarcastic letter, the meaning and intention of which can be understood only by reading it in its entirety (p. 43 of the hearings).

35. The chief counsel for the subcommittee wrote to Senator McCarthy on November 7, 1952, inviting Senator McCarthy to appear before a subcommittee in executive session, in connection with Senate Resolution 187, during the week of November 17, 1952, and asking to be advised of the date of Senator McCarthy's appearance (p. 44 of the hearings).

36. The administrative assistant to Senator McCarthy replied for Senator McCarthy by letter of November 10, 1952, stating that Senator McCarthy was away and that he did not know when he would return to Washington, stating, however, that if the subcommittee would let him know what information was desired he would be glad to try to be of help (p. 45 of the hearings).

37. Chairman Hennings, of the subcommittee, then wrote a letter to Senator McCarthy under date of November 21, 1952, which because of its importance is set forth in full:

"Dear Senator McCarthy: As you will recall, on September 25, 1951, May 7, 1952, and May 10, 1952, this subcommittee invited you to appear before it to give testimony relating to the investigation pursuant to Senate Resolution 187.

"Under date of November 7, 1952, the following communication was addressed to you:

" 'DEAR SENATOR MCCARTHY: In connection with the consideration by the Subcommittee on Privileges and Elections of Senate Resolution 187, introduced by Senator Benton on August 6, 1951, as well as the ensuing investigation, I have been instructed by the subcommittee to invite you to appear before said subcommittee in executive session. Insofar as possible, we would like to respect your wishes as to the date on which you will appear. However, the subcommittee plans to be available for this purpose during the week beginning November 17, 1952.

" 'It will be appreciated if you will advise me at as early a date as possible of the day you will appear, in order that the subcommittee may arrange its plans accordingly.

" 'Very truly yours,

" 'PAUL J. COTTER,
" '*Chief Counsel.*'

"On November 14, 1952, the subcommittee received the following communication, dated November 10, 1952:

" 'DEAR MR. COTTER: Inasmuch as Senator MCCARTHY is not now in Washington, I am taking the liberty of acknowledging receipt of your letter of November 7.

" 'I have just talked to the Senator over the telephone and he does not know just when he will return to Washington. It presently appears that he will not be available to appear before your committee during the time you mention. However, he did state that if you will let him know just what information you desire, he will be glad to try to be of help to you.

" 'Sincerely yours,

" 'RAY KIERMAS,
" '*Administrative Assistant to Senator McCarthy.*'

"The subcommittee is grateful for your offer of assistance, and we want to afford you with every opportunity to offer your explanations with reference to the issues involved. Therefore, although the subcommittee did make itself available during the past week in order to afford you an opportunity to be heard, we shall be at your disposal commencing Saturday, November 22, through but not later than Tuesday, November 25, 1952.

"This subcommittee has but one object, and that is to reach an impartial and proper conclusion based upon the facts. Your appearance, in person, before the subcommittee will not only give you the opportunity to testify as to any issues of fact which may be in controversy, but will be of the greatest assistance to the subcommittee in its effort to arrive at a proper determination and to embody in its report an accurate representation of the facts.

"Pursuant to your request, as transmitted to us through Mr. Kiermas, we are advising you that the subcommittee desires to make inquiry with respect to the following matters:

"(1) Whether any funds collected or received by you and by others on your behalf to conduct certain of your activities, including those relating to 'communism,' were ever diverted and used for other purposes inuring to your personal advantage.

"(2) Whether you, at any time, used your official position as a United States Senator and as a member of the Banking and Currency Committee, the Joint Housing Committee, and the Senate Investigations Committee, to obtain a $10,000 fee from the Lustron Corp., which company was then almost entirely subsidized by agencies under the jurisdiction of the very committees of which you were a member.

"(3) Whether your activities on behalf of certain interest groups, such as housing, sugar, and China, were motivated by self-interest.

"(4) Whether your activities with respect to your senatorial campaigns, particularly with respect to the reporting of your financing and your activities relating to the financial transactions with and subsequent employment of Ray Kiermas, involved violations of the Federal and State Corrupt Practices Acts.

"(5) Whether loan or other transactions which you had with the Appleton State Bank, of Appleton, Wis., involved violations of tax and banking laws.

"(6) Whether you used close associates and members of your family to secrete receipts, income, commodity and stock speculation and other financial transactions for ulterior motives.

"We again assure you of our desire to give you the opportunity to testify, in executive session of the subcommittee, as to the foregoing matters. The 82d Congress expires in the immediate future and the subcommittee must necessarily proceed with dispatch in making its report to this Congress. To that end, we respectfully urge you to arrange to come before us on or before November 25, and thus enable us to do our conscientious best in the interests of the Senate and our obligation to complete our work. We would thank you to advise us immediately, so that we may plan accordingly.

"This letter is being transmitted at the direction and with the full concurrence of the membership of this subcommittee.

"Sincerely yours,

"THOMAS C. HENNINGS, Jr.,
"*Chairman.*"

(P. 45 of the hearings.)

38. This letter was delivered by hand to the office of Senator MCCARTHY in Washington on November 21, 1952 (p. 47 of the hearings).

39. On the same day, November 21, 1952, Chairman HENNINGS sent the following telegram addressed to Senator MCCARTHY at Appleton, Wis.:

"Today you were advised by letter delivered by hand to your office of the principal matters which the subcommittee desires to interrogate you in furtherance of your express desire transmitted to the committee by your administrative assistant, Mr. Ray Kiermas, under date of November 10. The subcommittee appreciates your willingness to help in the completion of the work in connection with the investigation of Resolution 187 and the investigations predicated thereon. Your prompt appearance before the subcommittee can save the Government much effort and expense. We are sure that you want to be of help to us in arriving at a proper determination of the issues in controversy. We are therefore at your disposal in executive session and for your convenience suggest that the subcommittee is available to you commencing with tomorrow, Saturday, November 22, but not later than Tuesday the 25th, to enable the committee to hear you and allow time thereafter to prepare the subcommittee report.

"Senator Benton has also been notified to appear by similar communication. This action is being taken at the direction and with the full concurrence of the committee members" (p. 47 of the hearings).

40. The copy of the telegram in the H-H-H Report, designated "Exhibit No. 42" at page 99 thereof, was not sent to Senator MCCARTHY and was inserted as an exhibit by error in place of the foregoing telegram of November 21, 1952, as shown by the fact it is not dated and as appears in the index of appendix, page 55, wherein exhibit No. 42 is described as "Telegram dated November 21, 1952, from Senator HENNINGS to Senator MCCARTHY. * * * Page 99" (p. 51 of the hearings).

41. On November 21, 1952, Senator MCCARTHY was deer hunting in northern Wisconsin (p. 298 of the hearings).

42. Senator MCCARTHY wrote to Chairman HENNINGS on November 28, 1952, stating that he had just received the wire of November 22, and that, as Senator HENNINGS had been previously advised, Senator MCCARTHY was not expected to return to Washington until November 27, on which date he did return (p. 49 of the hearings).

43. Senator MCCARTHY did not see the letter or telegram dated November 21, 1952, until November 28, 1952 (p. 299 of the hearings).

44. Senator MCCARTHY wrote to Chairman HENNINGS under date of December 1, 1952, stating as follows:

"Senator THOMAS C. HENNINGS, Jr.,
"*Chairman, Subcommittee on Privileges and Elections, Senate Office Building.*

"DEAR MR. HENNINGS: This is to acknowledge receipt of yours of November 21 in which you state that your object is to reach an 'impartial and proper conclusion based upon the facts' in the Benton application which asks for my removal from the Senate.

"I was interested in your declaration of honesty of the committee and would like to believe that it is true. As you know, your committee has the most unusual record of any committee in the history of the Senate. As you know two members of your staff have resigned and made the public statement that their reason for resignation was that your committee was dishonestly used for political purposes. Two Senators have also resigned. One, Senator WELKER, in the strongest possible language indicted your committee for complete dishonestly in handling your investigation. Senator GILLETTE also resigned without giving any plausible reason for his resignation from the committee. Obviously, he also couldn't stomach the dishonest use of public funds for political purposes. For that reason it is difficult for me to believe your protestations of the honesty of your committee.

"I would, therefore, ordinarily not dignify your committee by answering your letter of November 21. However, I decided to give you no excuse to claim in your report that I refused to give you any facts. For that reason you are being informed that the answer to the six insulting questions in your letter of November 21 is 'No.' You understand that in answering these questions I do not in any way approve of nor admit the false statements and innuendoes made in the questions.

"I note with some interest your reference to my 'activities on behalf of certain special-interest groups, such as housing, sugar, and China.' I assume you refer to my drafting of the comprehensive Housing Act of 1946, which was passed without a single dissenting vote in the Senate, either Democrat or Republican. Neither you nor any other Senator has attempted to repeal any part of that Housing Act. Or perhaps you refer to the slum-clearance bill which I drafted and introduced in 1948, which slum-clearance bill was adopted in toto by the Democrat-controlled Senate in 1949.

"When you refer to sugar, I assume you refer to my efforts to do away with your party's rationing of sugar, as I promised the housewives I would during my 1946 campaign. If that were wrong, I wonder why you have not introduced legislation in the Democrat-controlled Senate to restore sugar rationing. You have had 2 years to do so.

"I thought perhaps the election might have taught you that your boss and mine—the American people—do not approve of treason and incompetence and feel that it must be exposed.

"You refer to the above as 'special interests.' I personally feel very proud of having drafted the Housing Act in 1948 which passed the Congress without a single dissenting vote—a housing act which contributed so much toward making it possible for veterans and all Americans in the middle- and low-income groups to own their own home. Likewise, I am proud of having been able to fulfill my promise to American housewives to obtain the derationing of sugar. I proved at the time that rationing was not for the

benefit of the housewives but for the commercial users.

"I likewise am double proud of the part I played in alerting the American people to your administration's traitorous betrayal of American interests throughout the world, especially in China and Poland.

"You refer to such activities on my part as 'activities for special interests.' I am curious to know what 'special interests' you mean other than the special interest of the American people.

"This letter is not written with any hope of getting an honest report from your committee. It is being written merely to keep the record straight.

"Sincerely yours,

"JOE MCCARTHY."

(P. 51 of hearings.)

45. Senator MCCARTHY appeared before the Subcommittee on Privileges and Elections once only, on July 3, 1952, in connection with his charges against Senator Benton under Senate Resolution 304, without in Senate Resolution 300 (pp. 52 and 375 of hearings).

46. Senator MCCARTHY did not appear before that subcommittee, at any other time, nor make any explanation in defense, except as shown in the foregoing correspondence, in connection with the charges pending against him, either before or after the Senate action in Senate Resolution 300 (pp. 52 and 375 of hearings).

47. Senator MCCARTHY did make an explanation of the Lustron matter on the floor of the Senate, on August 2, 1954 (p. 53 of hearings).

48. Senate Resolution 187, introduced by Senator Benton, was not voted upon by the Senate, although it was considered by the Senate in its vote on April 10, 1952, upon Senate Resolution 300 to test the jurisdiction of the subcommittee and the integrity of its members.

49. The vote of the Senate upon Senate Resolution 300 notwithstanding any previous question of the jurisdiction of the Hennings subcommittee, was a grant of authority to that subcommittee to proceed with its investigation of the charges pending against Senator MCCARTHY, since his election to the Senate.

50. Senate Resolution 187, introduced by Senator Benton, confined the subcommittee to activities of Senator MCCARTHY subsequent to his election in 1946.

51. Senator MCCARTHY's position was that he would not appear before the Hennings subcommittee upon the charges pending against him unless he was ordered to appear (p. 288 of hearings).

52. Senator MCCARTHY did not say in any of the correspondence relating to the hearings and his appearance, that he would not appear before the subcommittee unless he was ordered to do so, but testified that he so notified Chairman GILLETTE orally (p. 288 of hearings).

53. Senator MCCARTHY advised Chairman GILLETTE that unless he was given the right to cross-examine, that he had no desire to appear before the subcommittee, but that he would appear if ordered to do so (p. 288 of hearings).

54. At the hearings before the select committee, Senator MCCARTHY testified that the subcommittee knew that a witness was mentally incompetent "and they were going to call him solely for the purpose of doing a smear job" (p. 296 of hearings).

55. At the hearings before the select committee, Senator MCCARTHY testified that the insertion of the undated telegram, exhibit No. 42, in the Hennings report (found by this select committee to be a clerical error), "was completely dishonest," insisting upon this conclusion when the chairman asked whether it could not have been a mistake (pp. 299, 384, and 385 of hearing record).

56. Senator MCCARTHY told Chairman GILLETTE "that I would not appear unless I was ordered to appear or subpenaed. I forget which word I used. I told him I had no desire to appear before that committee and that his extending an opportunity meant nothing to me" (p. 305 of the hearing).

57. The report of the Subcommittee on Privileges and Elections was filed January 2, 1953 (p. 306 of the hearings).

58. On that day, Senator MCCARTHY, according to his own testimony, called Senator HENDRICKSON, a member of that subcommittee, by telephone and told him that it was completely dishonest to sign a report that was factually wrong (p. 306 of the hearings).

59. That evening Senator MCCARTHY gave a statement to the press regarding Senator HENDRICKSON, a member of that subcommittee, stating:

"This report accuses me either directly or by innuendo and intimation of the most dishonest and improper conduct.

"If it is true, I am unfit to serve in the Senate. If it is false, then the three men who joined in it—namely, HENDRICKSON, HENNINGS, and HAYDEN—are dishonest beyond words.

"If those 3 men honestly think that all of the 4 things of which they have accused me, they have a deep, moral obligation tomorrow to move that the Senate does not seat me as a Senator.

"If they think the report is true, they will do that. If they know the report is completely false and that it has been issued only for its smear value, then they will not dare to present this case to the Senate.

"This committee has been squandering taxpayers' money on this smear campaign for nearly 18 months. If they feel that they are honest and right, why do they fear presenting their case to the Senate?

"I challenge them to do that. If they do not, they will have proved their complete dishonesty.

"I can understand the actions of the left-wingers in the administration, like HENNINGS and HAYDEN. As far as HENDRICKSON is concerned, I frankly can bear him no ill will.

"Suffice it to say that he is a living miracle in that he is without question the only man in the world who has lived so long with neither brains nor guts" (pp. 67 and 68 of hearing record).

60. By letter of September 10, 1952, Chairman GILLETTE of the subcommittee wrote to Chairman HAYDEN, of the Committee on Rules and Administration, suggesting that the membership of the subcommittee be reduced from 5 members to 3, as it was originally, to facilitate the work of the subcommittee (p. 294 of the hearings).

61. Senator WELKER resigned as a member of the subcommittee on September 9, 1952 (p. 291 of the hearings).

62. Chairman GILLETTE resigned as a member of the subcommittee on September 26, 1952 (p. 294 of the hearings).

63. After consultation with the Parliamentarian, Senator HAYDEN, chairman of the parent Committee on Rules and Administration, decided it was unnecessary to appoint 2 Members of the Senate to take the places of those who had resigned, because it was a committee of 5 with a majority of 3, and because the Senate not being in session, it was very difficult to obtain Senators who were members of the Committee on Rules and Administration (p. 361 of the hearings).

64. Senator MONRONEY, who was in Europe, resigned as a member of the subcommittee, on November 20, 1952 (p. 361 of the hearings).

65. On November 20, 1952, Senator HAYDEN made it a matter of record by writing to the clerk of the Committee on Rules and Administration that he was appointing himself a member of the Subcommittee on Privileges and Elections in place of Senator MONRONEY (p. 362 of the hearings).

66. The subcommittee, with Senator HENNINGS as chairman, and Senators HENDRICKSON and HAYDEN as members, continued to function until January 16, 1953 (pp. 362 and 367 of the hearings).

67. Since January 1953 the Subcommittee on Privileges and Elections has had but three members (p. 362 of the hearings).

68. The suggestion of Senator GILLETTE that the membership of the subcommittee be reduced to three members was given consideration by both the Committee on Rules and Administration and the subcommittee (p. 362 of the hearings).

69. Senators HENNINGS, HAYDEN, and HENDRICKSON signed the subcommittee report pursuant to Senate Resolution 187 and Senate Resolution 304 (p. 363 of the hearings).

70. It was the opinion of Chairman HAYDEN, of the Committee on Rules and Administration, that without reducing the subcommittee to 3 members, the subcommittee could continue to function as a committee of 5 with but 3 members (p. 365 of the hearings).

71. It was the opinion of Chairman HAYDEN, that the Senate not being in session, it was not necessary for him as chairman of the parent committee to obtain confirmation by the parent committee of appointments to the subcommittee (p. 365 of the hearings).

72. Chairman HAYDEN testified that there was immediate important work for the subcommittee to do and that there was no one other than himself on the Committee on Rules and Administration who could be appointed to the subcommittee (p. 365 of the hearings).

73. This manner of conducting the Subcommittee on Privileges and Elections was consistent with its practice since before the 81st Congress and did not violate any rule of the parent committee (p. 366 of the hearings).

74. Chairman HAYDEN continued as chairman of the Committee on Rules and Administration, and Chairman HENNINGS of the Subcommittee on Privileges and Elections continued in office until about January 16, 1953 (pp. 367 and 369 of the hearings).

75. At the hearings before the select committee, Senator MCCARTHY testified when asked whether he had any evidence to support his written statements that the subcommittee was spending tens of thousands of dollars and as guilty as though engaged in picking the pockets of the taxpayers to turn the loot over to the Democrat National Committee, that he had produced this evidence in letters to the subcommittee (p. 377 of the hearings).

76. No such evidence appears in the letters.

77. When asked whether he had any evidence that the subcommittee had spent tens of thousands of dollars illegally, Senator MCCARTHY testified that, "They were spending a vast amount of money illegally, I don't know the exact figure" (p. 378 of the hearings).

78. When asked whether he knew that the matters pending before the subcommittee reflected seriously upon his character and activities and were of sufficient moment ordinarily to justify making some reply, Senator MCCARTHY testified that: "They were six insulting questions asked by the committee—by a Senator, not by a legal committee, I answered his questions. I told him the answer was 'No'" (p. 383 of the hearings). (But note that the above answer was contained in a letter from Senator MCCARTHY to Senator HENNINGS dated December 1, 1952, addressed to the latter as chairman of the Subcommittee on Privileges and Elections (pp. 51–52 of the hearings)).

79. At page 384 of the hearings, Senator MCCARTHY was asked whether it was his position that when matters of that serious nature are pending against a Member of the United States Senate, instead of appearing and making an answer, he can call them "insulting" and need not appear, and Senator MCCARTHY testified in reply that: "They are no more 'matters' than the 46 statements made by Senator FLANDERS."

80. On January 2, 1953, Senator McCarthy bitterly criticized Senator Hendrickson with reference to the latter's work with the Subcommittee on Privileges and Elections, and then gave to the press a statement that Senator Hendrickson was "a living miracle in that he is without question the only man who has lived so long with neither brains nor guts" (pp. 66 and 425 of the hearings). (See also Finding of Fact No. 59.)

81. At the hearings before the select committee, when given the opportunity by Senator Case to withdraw or modify his remarks about Senator Hendrickson, a member of the subcommittee, Senator McCarthy indicated he had no desire to change his position (p. 425 of the hearings).

C. Legal Questions Involved in This Category

Several legal questions are involved and were considered in this part of the inquiry. They may be stated briefly as follows:

1. Is the Senate a continuing body?

2. Does the Senate have the power to censure a Senator for conduct occurring during his prior term as Senator?

3. Was it necessary for Senate Resolution 187 to be adopted by the Senate?

4. Was the Gillette-Hennings subcommittee acting beyond its power and jurisdiction?

5. Was it a lawfully constituted subcommittee?

6. Was it necessary for that subcommittee to subpena Senator McCarthy?

7. Was Senator McCarthy repeatedly invited to appear?

8. Was it the duty of Senator McCarthy to appear without an order or subpena to appear and was his failure to appear obstructive?

9. Was the request to Senator McCarthy to appear a legal basis for contempt, and was his reply contumacious?

10. Was Senator McCarthy's conduct toward that subcommittee contemptuous, independently of his failure to appear?

11. Did Senator McCarthy "denounce" the subcommittee?

12. Has the conduct of Senator McCarthy been contumacious toward the Senate by failing to explain the six charges contained in the subcommittee's report?

13. Did the reelection of Senator McCarthy in 1952 make these matters moot?

Discussion of legal questions

1. The Senate Is a Continuing Body

The fact that the Senate is a continuing body should require little discussion. This has been uniformly recognized by history, precedent, and authority. While the rule with reference to the House, whose Members are elected all for the period of a single Congress may be different, the Senate is a continuing body, whose Members are elected for a term of 6 years, and so divided into classes that the seats of one-third only become vacant at the end of each Congress. Senate Document No. 99, 83d Congress, 2d session, Congressional Power of Investigation, page 7.

Senate rule XXV (2) provides that each standing committee shall continue and have the power to act until their successors are appointed. That rule was followed in the case of the committee in question. The testimony taken in the hearings of the select committee shows that Senator Hayden, chairman of the Committee on Rules and Administration in the 82d Congress, certified the payroll for that committee for the 1st month of the 83d Congress.

The continuity of the Senate was questioned at the beginning of the 83d Congress, and the issue was decided in favor of the precedents. Congressional Record, volume 99, part 1, pages 108–129. [Senate rule XXV (2) provides that each standing committee shall continue and have power to act until their successors are appointed. Senate rule XXXII provides that the legislative business of the Senate shall be continued from session to session, and that the legislative business which remains undetermined at the close of the next preceding session of that Congress shall be resumed as if no adjournment had taken place. This rule makes it clear that all legislative business continues from session to session.] *For further discussion,* see Senate Document No. 4, 1953, 83d Congress. The rule that the Senate is a continuing body has been recognized by the Supreme Court, in *McGrain* v. *Daugherty* (273 U. S. 135, 182 (1927)), where the Court said:

"This being so, and the Senate being a continuing body, the case cannot be said to have become moot in the ordinary sense."

2. The Senate Has the Power To Censure a Senator for Conduct Occurring During His Prior Term as Senator

The contention has been made by Senator McCarthy that since he was reelected in 1952 and took his seat for a new term on January 3, 1953, the select committee lacks power to consider any conduct on his part, occurring prior to January 3, 1953, as the basis for censure. His counsel based this contention on several cases cited as authority for this proposition (p. 19 of the hearings), being *Anderson* v. *Dunn* (6 Wheat. 204); *Jurney* v. *MacCracken* (294 U. S. 125); and *U. S.* v. *Bryan* (339 U. S. 323). The argumentative basis for this contention is that the power to censure is part of the power of the Senate to punish for contempt, and that any limitations on the latter power must necessarily limit the power to censure. This contention is without foundation for at least two reasons: (1) The power to censure is an independent power and may be exercised by the Senate for conduct totally unrelated to any act or acts which may be contemptuous; and (2) even assuming that the power to censure is limited to the extent of the power to punish for contempt, the authorities cited do not sustain the proposition advanced.

The case of *Anderson* v. *Dunn* (6 Wheat. 204 (1821)) was an action in trespass for an assault and battery and false imprisonment against the Sergeant at Arms of the House of Representatives. The Supreme Court held that the defendant Sergeant at Arms had a proper and lawful defense by showing that he acted under the orders of the Speaker and had taken the plaintiff into custody for a high contempt of the dignity of the House. The only possible relevancy of the opinion to the matters now pending before the select committee appears in the opinion by Mr. Justice Johnson, at page 231, that the duration of the imprisonment for contempt of the House is limited when the legislative body ceases to exist on the moment of its adjournment, and the imprisonment must terminate with that adjournment. It is clear that this was dictum, applies to the House and not to the Senate, does not involve a case of censure of a Member of the Senate, and was the law only until Congress by statute made contempt of either House a criminal offense.

In the case of *Jurney* v. *MacCracken* (294 U. S. 125 (1935)) the defendant, a lawyer, was arrested by the Sergeant at Arms of the Senate, pursuant to a resolution of the Senate, for contempt in failing to produce and permitting the removal and destruction of certain papers, after they had been subpenaed by the special Senate committee investigating ocean and airmail contracts. The Supreme Court affirmed the dismissal of the defendant's writ of habeas corpus holding that where the offending act was of a nature to obstruct the legislative process, the fact that the obstruction has since been removed or that its removal has become impossible is without significance; that the enactment of Revised Statute 102 did not impair the right of Congress to punish for contempt; and that whether a recalcitrant witness has purged himself of contempt is for Congress to decide and cannot be inquired into by a court by a writ of habeas corpus. It is evident that this case does not deal with any question of censure or punishment of a Member of the Senate. MacCracken did contend that the Senate was absolutely without power itself to impose punishment for a past act, and that such punishment must be inflicted by the courts, as for other crimes, and under the safeguard of all constitutional provisions, but this contention was dismissed by the opinion of the Supreme Court, delivered by Mr. Justice Brandeis, at page 149.

The case of *United States* v. *Bryan* (339 U. S. 323 (1950)) involved a criminal trial for contempt of the House Committee on Un-American Activities, and the refusal of the defendant to produce certain records under subpena from that committee. In the opinion of the Supreme Court, by Mr. Chief Justice Vinson, mention is made of Revised Statutes, section 102 (2 U. S. C., sec. 192), enacted in 1857. It is clear that one of the purposes of the act was to permit the imprisonment of a contemnor beyond the expiration of the current session of Congress. The Supreme Court states unequivocally that the judicial proceedings under the statute are intended as an alternative method of vindicating the authority of Congress to compel the disclosure of facts which are needed in the fulfillment of the legislative function. The select committee was advised by its counsel that this case has no apparent bearing upon the contention of Senator McCarthy in these procedings with reference to his failure to appear before the Gillette-Hennings subcommittee. Counsel further advised that it is inappropriate to cite cases of criminal contempt as the basis for the law of censure by the Senate of one of its Members.

It seems clear that if a Senator should be guilty of reprehensible conduct unconnected with his official duties and position, but which conduct brings the Senate into disrepute, the Senate has the power to censure. The power to censure must be independent, therefore, of the power to punish for contempt. A Member may be censured even after he has resigned (2 Hinds' Precedents 1239, 1273, 1275 (1907)). Precedents in both the Senate and House for expulsion or censure for conduct occurring during a preceding Congress may be found in Hinds (op. cit., 1275 to 1289). Precedents in the House cannot be considered as controlling because the House is not a continuing body.

In this connection, it must be remembered that the report of the Subcommittee on Privileges and Elections was filed on January 2, 1953, and since the new Congress convened the next day, there was not time for action in the prior session.

While it may be the law that one who is not a Member of the Senate may not be punished for contempt of the Senate at a preceding session, this no basis for declaring that the Senate may not censure one of its own Members for conduct antedating that session, and no controlling authority or precedent has been cited for such position.

The particular charges against Senator McCarthy, which are the basis of this category, involve his conduct toward an official committee and official committee members of the Senate. [These committees continue from session to session and there is no lapse in their legislative business.]

The reelection of Senator McCarthy in 1952 was considered by the select committee as a fact bearing on this proposition. This reelection is not deemed controlling because only the Senate itself can pass judgment upon conduct which is injurious to its processes, dignity, and official committees.

In the Senate on April 8, 1952 (Congressional Record, vol. 98, pt. 3, pp. 3701–3705), at the request of Senator Hayden, there were ordered printed Senate Expulsion, Exclusion,

and Censure Cases Unconnected With Elections, 1871–1951.

A résumé of precedents on expulsion, exclusion, and censure cases since the organization of the Committee on Privileges and Elections is printed on page 73 of the Hennings-Hayden-Hendrickson report. Another collection of Senate precedents appears in the CONGRESSIONAL RECORD, Senate, August 2, 1954, page 12989, being a study prepared by William R. Tansill, of the Government Division of the Legislative Reference Service of the Library of Congress, printed on motion of Senator MORSE. In election cases, the Senate, of course, considers conduct occurring before the commencement of the term of the Senator involved. Senator MORSE, in the same day, had printed in the same CONGRESSIONAL RECORD at page 12999 certain pertinent material from Hinds' Precedents, and at page 13000 certain pertinent material from Cannon's Precedents.

From an examination and study of all available precedents, the select committee is of the opinion that the Senate has the power, under the circumstances of this case, to elect to censure Senator MCCARTHY for conduct occurring during his prior term in the Senate, should it deem such conduct censurable.

3. It Was Not Necessary for Senate Resolution 187 To Be Adopted by the Senate

Senate Resolution 187, introduced by Senator Benton on August 6, 1951, was not actually a resolution for the expulsion of Senator MCCARTHY. In the resolution paragraph, the Committee on Rules and Administration is authorized to make an investigation "as may be appropriate to enable such committee to determine whether or not it should initiate action with a view toward the expulsion from the United States Senate of the said Senator, JOSEPH R. MCCARTHY."

In the regular order of Senate business, after this resolution was introduced, it was referred by the President of the Senate, without a vote by the Senate, to the Committee on Rules and Administration.

The Legislative Reorganization Act of 1946, in section 102, which incorporates rule XXV of the Standing Rules of the Senate, provides that among the standing committees to be appointed at the commencement of each Congress, with leave to report by bill or otherwise, there shall be a Committee on Rules and Administration, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to * * * credentials and qualifications. By section 134–A of the same act, each standing committee of the Senate, including any subcommittee of such committee, is authorized to hold such hearings, to sit and act at such times and places during the sessions and adjourned periods of the Senate, to require by subpena or otherwise the attendance of such witnesses * * * as it deems advisable. It is further provided in the same section that each such committee may make investigations into any matter within its jurisdiction and report such hearings as may be had by it.

As stated by Senator CASE (at p. 61 of the hearings) reference is made on page 71 of the Hennings report, being the report of the Subcommittee on Privileges and Elections to the Committee on Rules and Administration pursuant to Senate Resolutions 187 and 304, that investigations with reference to alleged misconduct by a Senator may be undertaken by the Subcommittee on Privileges and Elections with or without specific Senate authorization or direction. That report states at the page indicated:

"The old Committee on Privileges and Elections was presented with five cases of expulsion or exclusion unconnected with an election. In three of these cases, those of Smoot, Burton, and Gould, the Senate adopted resolutions directing an investigation of the charges against the respective Senators. In the other two cases, those of La Follette and Langer, the petitions and protests of private citizens were referred by the Presiding Officer to the Committee on Privileges and Elections, which then conducted investigations without obtaining resolutions of authorization from the Senate.

"These precedents indicate that the legal power of the subcommittee to conduct investigations of its own motion is not subject to question; and also that the subcommittee may act under a resolution formally adopted by the Senate."

It is the opinion of the select committee, in addition to the conclusion made evident by the foregoing precedents, that the vote of the Senate on April 10, 1952, upon Senate Resolution 300, 82d Congress, 2d session, introduced by Senator HAYDEN for himself and Senators GILLETTE, MONRONEY, HENNINGS, and HENDRICKSON, to obtain the sense of the Senate upon the right and power of the Committee on Rules and Administration and its Subcommittee on Privileges and Elections to proceed with the investigation of Senator MCCARTHY under Senate Resolution 187, and to obtain a vote of confidence from the Senate in the integrity of the committee members, carried all the implications, and was to the same effect, as if the Senate by vote had directed that committee and subcommittee, on August 6, 1951, to proceed with the investigation sought by Senate Resolution 187.

It is, therefore, the opinion of the select committee that it was not necessary for Senate Resolution 187 to have been adopted by the Senate.

4. The Gillette-Hennings Subcommittee on Privileges and Elections Was Not Acting Beyond Its Power or Jurisdiction

The action of the Senate upon Senate Resolution 300 must be considered as an affirmance that as of April 10, 1952, when the actions of the Subcommittee on Privileges and Elections and the integrity of its members were ratified and approved by a vote of 60 to 0, the committee and subcommittee were acting within its power and jurisdiction.

The jurisdiction of the Subcommittee on Privileges and Elections was not limited to the conduct of Senator MCCARTHY connected with elections only but extended to acts totally unconnected with election matters, but which were relevant in inquiries relating to expulsion, exclusion, and censure. The debate in the Senate and the vote of the Senate makes this abundantly clear. (See CONGRESSIONAL RECORD, Senate, April 8, 1952, pp. 3701, 3753–3756.) One of the principal purposes of the introduction of Senate Resolution 300 was to affirm or deny the contention of Senator MCCARTHY that the Subcommittee on Privileges and Elections lacked jurisdiction to investigate such acts as were not connected with elections and campaigns. Senate Resolution 187, introduced by Senator Benton, provided for an investigation with reference to the other acts of Senator MCCARTHY since his election to the Senate (in the fall of 1946), as might be appropriate to carry out the purposes of the resolution. It is clear, therefore, that the subcommittee had the right and power to investigate the acts of Senator MCCARTHY at least since January 1947. While Senate Resolution 187 did not itself specify any charges against Senator MCCARTHY, the charges pending upon the Subcommittee on Privileges and Elections were known to Senator MCCARTHY and were disclosed to him in detail in the correspondence between him and the chairman of the subcommittee. Most of the six charges referred clearly to activities of Senator MCCARTHY after January 1947. It may be, although this select committee is not in a position to so decide, that some parts of the investigations and proceedings of the Subcommittee on Privileges and Elections were concerned with matters arising before January 1947, but it is the judgment of this select committee that this extension of power and authority did not ipso facto nullify the power and jurisdiction of that subcommittee to proceed with its lawful duties and powers.

It is, therefore, the judgment of the select committee that for purposes of the present inquiry, it can be stated that the Gillette-Hennings Subcommittee on Privileges and Elections was not acting beyond its power and jurisdiction so far as forming a basis for the possible censure of Senator MCCARTHY by reason of his conduct in relation with and toward that subcommittee.

5. The Gillette-Hennings Subcommittee on Privileges and Elections Was a Lawfully Constituted Committee

As shown by the testimony taken in this proceeding, the subcommittee originally had five members. After the resignations of Senators WELKER and GILLETTE, and the reduction of the number of acting members to 3, Senator HAYDEN, chairman of the Committee on Rules and Administration, the parent committee, decided that it was not necessary to fill the 2 vacancies, and that the work of the subcommittee would be better performed by the smaller number. After that time, Senator MONRONEY resigned, and Senator HAYDEN then appointed himself to that vacancy, so that the subcommittee continued with three members.

Senator HAYDEN testified that there was no rule of the parent committee or subcommittee which was contrary to the procedure adopted in this case, and that the procedure was consonant with the practice both before and after 1952. As a matter of fact, the subcommittee since 1952 has consisted of three members.

With the approval of Senator MCCARTHY and his counsel, testimony was taken from Charles L. Watkins, the Senate Parliamentarian, upon the status and legality of the Gillette-Hennings subcommittee. This testimony appears on page 535 of the hearings, and may be epitomized as follows:

1. The three-member subcommittee, as constituted by Senator HAYDEN, after the resignation of Senator MONRONEY, by appointing himself as the third member, was a legal committee for the discharge of regular business under the rules and precedents of the Senate.

2. There was no mandatory requirement for a chairman to fill a vacancy on a subcommittee.

3. Chairman HAYDEN of the parent Committee on Rules and Administration had the right to appoint himself a member of the Subcommittee on Privileges and Elections, without submitting the appointment to the Committee on Rules and Administration, for prior approval or subsequent ratification.

4. This was particularly true when the Senate was not in session.

5. Chairman HAYDEN had the right to recognize Senator HENNINGS as chairman of the Subcommittee on Privileges and Elections, and had the right to appoint the chairman of the subcommittee.

6. The subcommittee of 3 members had the right to designate 1 member as a legal quorum for the purpose of taking testimony.

7. The subcommittee of 3 members was authorized and had the duty to make a report to the full committee, signed by its 3 members, Senators HENNINGS, HAYDEN, and HENDRICKSON, and file the report with the full Committee on Rules and Administration, with Senator HAYDEN as chairman.

8. In a quasi-judicial proceeding such as an expulsion matter, although 3 of the original 5 members of the Subcommittee on Privileges and Elections have resigned, although 2 of the vacancies have not been filled, and the chairman of the Committee on Rules and Administration has appointed himself to the third vacancy on the subcommittee, that subcommittee of 3 members had the right to file a valid legal report with the parent committee, when less than half of its original 5 members have heard the evidence.

6. It Was Not Necessary for the Subcommittee To Subpena Senator McCarthy

A question has been raised in these proceedings whether it was necessary for the Subcommittee on Privileges and Elections to subpena Senator McCARTHY to appear before it.

According to his testimony, he had no desire to appear before the subcommittee and advised the chairman that he would not appear before it to answer the charges made against him and pending before that subcommittee, unless he was ordered so to do. The provisions of the Legislative Reorganization Act, above referred to, make it clear that the subcommittee had the power and right to require the attendance of Senator McCARTHY for purposes of investigation and examination "by subpena or otherwise." It can be stated, therefore, categorically, that it was not necessary for the subcommittee to issue its subpena for him. Section 134–A of the Legislative Reorganization Act does refer to "requiring" the attendance of witnesses, and the select committee is of the opinion that an invitation to appear, is not such action indicating a requirement to appear as is contemplated by the act. It is the opinion of the select committee that a request to appear, such as the letter and telegram from the subcommittee to Senator McCARTHY dated November 21, 1952, was sufficient (aside from any question whether Senator McCARTHY received them in time) to meet the requirements of the law. The related questions whether Senator McCARTHY was repeatedly invited to appear, and whether he should have appeared even without invitation and without request or subpena, are considered hereinafter.

7. Senator McCarthy Was Repeatedly Invited To Appear

The select committee has carefully considered all the letters in evidence between Senator McCARTHY and the Subcommittee on Privileges and Elections, and all the testimony relating to his appearance before the subcommittee. The facts relating to whether or not Senator McCARTHY was repeatedly invited to appear before that subcommittee in order to make answer to the very serious charges against his character and his activities in the Senate have already been found by the select committee and incorporated hereinabove as findings of fact. This evidence and this testimony, upon analysis, has convinced the select committee that Senator McCARTHY was invited by that subcommittee to appear before it in order to aid its investigation and to give answer to the charges made against him and pending before that subcommittee. It must be remembered that Senator McCARTHY wrote to Chairman GILLETTE under date of September 17, 1951, stating that he intended to appear to question witnesses (see finding of fact No. 7). Senator McCARTHY was invited to appear before the subcommittee by letter of September 25, 1951 (finding of fact No. 8), by letter of October 1, 1951 (finding of fact No. 10), by letter of December 21, 1951 (finding of fact No. 20), by letter of May 7, 1952 (finding of fact No. 30), by letter of May 10, 1952 (finding of fact No. 33), and by letter of November 7, 1952 (finding of fact No. 35).

8. It Was the Duty of Senator McCarthy To Accept the Repeated Invitations by the Subcommittee, and His Failure To Appear Was Obstructive of the Processes of the Senate, For No Formal Order or Subpena Should Be Necessary To Bring Senators Before Senate Committees When Their Own Honor and the Honor of the Senate Are at Issue

The matters against Senator McCARTHY under investigation by the Gillette-Hennings subcommittee were of a serious nature. Apparently, Senator McCARTHY knew the nature of these matters, since he testified:

"I know all about this matter: I have been living with it. It had been underway. They had been going far beyond the resolution, investigating things they had no right to investigate; going back beyond the time that I was even old enough to run for Senator, investigating the income-tax returns of my father, who died before I was elected. So I knew those facts" (p. 385 of the hearings).

Furthermore, Chairman GILLETTE specified one of the matters against Senator McCARTHY (that of the Lustron payment) in his letter of May 7, 1952, to Senator McCARTHY (p. 32 of the hearings), and Chairman HENNINGS specified all six of the matters in his letter to Senator McCARTHY of November 21, 1952 (p. 45 of the hearings).

The mere reading of these matters (p. 46 of the hearings) without deciding or attempting to decide whether they are true or not, makes it clear that the honesty, sincerity, character, and conduct of Senator McCARTHY were under inquiry. It is the opinion of the select committee that when the personal honor and official conduct of a Senator of the United States are in question before a duly constituted committee of the Senate, the Senator involved owes a duty to himself, his State, and to the Senate, to appear promptly and cooperate fully when called by a Senate committee charged with the responsibility of inquiry. This must be the rule if the dignity, honor, authority, and powers of the Senate are to be respected and maintained. This duty could not and was not fulfilled by questioning the authority and jurisdiction of the subcommittee, by accusing its members of the dishonest expenditure of public funds, or even by charging that the subcommittee was permitting itself to be used to serve the cause of communism. When persons in high places fail to set and meet high standards, the people lose faith. If our people lose faith, our form of government cannot long endure.

The appearance which we believe was necessary was before a subcommittee of the Senate itself, to which subcommittee the Senate, through its normal processes, had confided a matter affecting its own honor and integrity. In such a case legal process was not and should not be required.

9. The Request of November 21, 1952, to Senator McCarthy To Appear Did Not Form a Legal Basis for Contempt, but His Reply of December 1, 1952, Was, in Itself, Contumacious in Character

As appears from the findings of fact, Senator McCARTHY was formally requested to appear by letter and by telegram from Subcommittee Chairman HENNINGS, dated November 21, 1952. The request was that he appear before the subcommittee between November 22 and November 25, 1952 (p. 46 of the hearings).

Senator McCARTHY testified that he was in Wisconsin, on a hunting trip, and that he did not see the letter or telegram until November 28, 1952 (p. 298 of the hearings). The select committee accepts this testimony as true.

Considering this request as a formal request, and Senator McCARTHY being unable to appear in the dates fixed because he did not know of the request in time, we believe that this request, considered independently, would not be contempt in the ordinary legal sense, but we think the letter which he wrote in reply to the request was contumacious in its entire form and manner of expression when directed at a committee of the Senate seeking to act upon a matter referred to it (p. 51 of the hearings).

10. The Conduct of the Junior Senator From Wisconsin Toward the Subcommittee on Privileges and Elections Was Contemptuous, Independently of His Failure To Appear

We have considered carefully all of the correspondence and all the conduct, relation, and attitude of Senator McCARTHY toward the Subcommittee on Privileges and Elections. We believe it fair to say on the evidence in this record that the junior Senator from Wisconsin did not intend to appear before that subcommittee for examination.

He first questioned the jurisdiction of the subcommittee to inquire into any but election charges. Later he contended that the subcommittee was investigating conduct preceding his election to the Senate, and that, therefore, its activities were illegal.

He also stated that he would not appear unless he were given the right to cross-examine witnesses. We feel that this right should have been accorded to him and that upon proper request, either to the Committee on Rules and Administration, of which Senator McCARTHY was a member (p. 27 of the hearings), or to the Senate itself, he could have obtained this right, but that, in any event, this cannot be a justification for contemptuous conduct.

The letters of Senator McCARTHY to the respective chairmen of the subcommittee, dated December 6, 1951 (p. 24 of the hearings), December 19, 1951 (p. 27 of the hearings), March 21, 1952 (p. 30 of the hearings), May 8, 1952 (p. 32 of the hearings), May 8, 1952 (p. 35 of the hearings), May 11, 1952 (p. 44 of the hearings), and December 1, 1952 (p. 51 of the hearings), are clearly contemptuous, disregarding entirely his duty to cooperate, ridiculing the subcommittee, accusing these committee officers of the Senate with dishonesty and impugning their motives, and making it impossible for them to proceed in orderly fashion, or to complete their duties.

The same attitude was expressed in the statement given to the press by Senator McCARTHY on January 2, 1953 (p. 68 of the hearings).

The letters to Senator McCARTHY from Chairman GILLETTE, later from Chairman HENNINGS, and the letter from Chairman HAYDEN, were uniformly courteous and cooperative, as one Senator should have the right to expect from colleagues. There is no justification in his record for the harsh criticisms directed by Senator McCARTHY to the subcommittee, in letters apparently sometimes given to the press before receipt by the person to whom directed (p. 27 of the hearings).

It is the opinion of the select committee that this conduct of Senator McCARTHY was contemptuous, independently of his failure to appear before the subcommittee.

11. The Junior Senator From Wisconsin Did "Denounce" the Senate Subcommittee on Privileges and Elections Without Justification

We feel that the fact that Senator McCARTHY denounced the Subcommittee on Privileges and Elections is established by reference to a few of the letters in the exchange of correspondence. In his letter of December 6, 1951 (p. 24 of the hearings), to Chairman GILLETTE, Senator McCARTHY states that when the subcommittee, without Senate authorization, is "spending tens of thousands of taxpayers' dollars for the sole purpose of digging up campaign material against McCARTHY, then the committee is guilty of stealing just as clearly as though the members engaged in picking the pockets of the taxpayers and turning the loot over to the Democrat National Committee." Such language directed by a Senator toward a committee of the Senate pursuing its authorized functions is clearly intemperate, in bad taste, and unworthy of a Member of this body.

These accusations by Senator McCARTHY are continued and repeated in his letter to Chairman GILLETTE dated December 19, 1951 (p. 27 of the hearings). Under date of March 21, 1952 (p. 30 of the hearings), Senator McCARTHY wrote to Senator HAYDEN, chairman of the parent Committee on Rules and Administration that: "As you know I wrote Senator GILLETTE, chairman of the subcommittee, that I consider this a completely dishonest handling of taxpayers' money." Similar language is used in Senator Mc-

CARTHY's letters down to the last dated December 1, 1952 (p. 51 of the hearings).

If Senator MCCARTHY had any justification for such denunciation of the subcommittee, he should have presented it at these hearings. His failure so to do leaves his denunciation of officers of the Senate without any foundation in this record.

The members of the subcommittee were Senators representing the people of sovereign States. They were performing official duties of the Senate. Every Senator is understandably jealous of his honor and integrity, but this does not bar inquiry into his conduct, since the Constitution expressly makes the Senate the guardian of its own honor.

It is the opinion of the select committee that these charges of political waste and dishonesty for improper motives were denunciatory and unjustified.

In this connection, attention is directed to the charges referred to this committee relating to words uttered by the junior Senator from Wisconsin about individual Senators.

It has been established, without denial and in fact with confirmation and reiteration, that Senator MCCARTHY, in reference to the official actions of the junior Senator from New Jersey [Mr. HENDRICKSON], as a member of the Subcommittee on Privileges and Elections, questioned both his moral courage and his mental ability.

His public statement with reference to Senator HENDRICKSON was vulgar and insulting. Any Senator has the right to question, criticize, differ from, or condemn an official action of the body of which he is a Member, or of the constituent committees which are working arms of the Senate in proper language. But he has no right to impugn the motives of individual Senators responsible for official action, nor to reflect upon their personal character for what official action they took.

If the rules and procedures were otherwise, no Senator could have freedom of action to perform his assigned committee duties. If a Senator must first give consideration to whether an official action can be wantonly impugned by a colleague, as having been motivated by a lack of the very qualities and capacities every Senator is presumed to have, the processes of the Senate will be destroyed.

12. The Conduct of Senator McCarthy Has Been Contumacious Toward the Senate by Failing To Explain Three of the Questions Raised in the Subcommittee's Report

The report of the subcommittee was filed on January 2, 1953. Since that time Senator MCCARTHY has given to the Senate, on the Senate floor, an explanation of the Lustron matter only. Of the other 5 matters, mentioned in the November 21, 1952, letter by Chairman HENNINGS, 3 are of a serious nature, reflecting upon Senator MCCARTHY'S character and integrity, and have not been answered either before the Senate or before any of its committees.

It is our opinion that the failure of Senator MCCARTHY to explain to the Senate these matters: (1) Whether funds collected to fight communism were diverted to other purposes inuring to his personal advantage; (2) whether certain of his official activities were motivated by self-interest; and (3) whether certain of his activities in senatorial campaigns involved violations of the law; was conduct contumacious toward the Senate and injurious to its effectiveness, dignity, responsibilities, processes, and prestige.

13. The Reelection of Senator McCarthy in 1952 Did Not Settle These Matters

This question is answered in part by our conclusions that the Senate is a continuing body and has power to censure a Senator for conduct occurring during his prior term as Senator, and in part by the fact that some of the contumacious conduct occurred after his reelection, notably the letter of December 1, 1952. The Senate might have proceeded with this matter in 1953 or earlier in 1954 had the necessary resolution been proposed.

Some of the questions, notably the use for private purposes of funds contributed for fighting communism, were not raised until after the election. The people of Wisconsin could pass only upon what was known to them.

Nor do we believe that the reelection of Senator MCCARTHY by the people of Wisconsin in the fall of 1952 pardons his conduct toward the Subcommittee on Privileges and Elections. The charge is that Senator MCCARTHY was guilty of contempt of the Senate or a senatorial committee. Necessarily, this is a matter for the Senate and the Senate alone. The people of Wisconsin can only pass upon issues before them; they cannot forgive an attack by a Senator upon the integrity of the Senate's processes and its committees. That is the business of the Senate.

D. Conclusions

It is, therefore, the conclusion of the select committee that the conduct of the junior Senator from Wisconsin toward the Subcommittee on Privileges and Elections, toward its members, including the statement concerning Senator HENDRICKSON acting as a member of the subcommittee, and toward the Senate, was contemptuous, contumacious, and denunciatory, without reason or justification, and was obstructive to legislative processes. For this conduct, it is our recommendation that he be censured by the Senate.

II

Category II. Incidents of encouragement of United States employees to violate the law and their oaths of office or Executive orders

A. Summary of Evidence

The committee, pursuant to the category 2, "Incidents of encouragement of United States employees to violate the law and their oaths of office or Executive orders," received evidence and took testimony regarding:

1. Amendment proposed by Mr. FULBRIGHT to the resolution (S. Res. 301) to censure the Senator from Wisconsin [Mr. MCCARTHY], viz:

"(5) The junior Senator from Wisconsin openly, in a public manner before nationwide television, invited and urged employees of the Government of the United States to violate the law and their oath of office."

2. Amendment proposed by Mr. MORSE to the resolution (S. Res. 301) to censure the Senator from Wisconsin [Mr. MCCARTHY], viz:

"(e) Openly invited and incited employees of the Government to violate the law and their oaths of office by urging them to make available information, including classified information, which in the opinion of the employees could be of assistance to the junior Senator from Wisconsin in conducting his investigations, even though the supplying of such information by the employee would be illegal and in violation of Presidential order and contrary to the constitutional rights of the Chief Executive under the separation-of-powers doctrine."

This category involves alleged statements of Senator MCCARTHY made at and during the hearings before the Special Subcommittee on Investigations for the Committee on Government Operations of the United States Senate pursuant to Senate Resolution 189, and reveals the following specific charges:

1. That Senator MCCARTHY openly, in a public manner before nationwide television, invited, urged, and incited employees of the Government to violate the law and their oaths of office.

2. That he invited, urged, and incited such employees to give him classified information.

3. That the supplying of such classified information by such employees would be illegal, in violation of Presidential orders and contrary to the constitutional rights of the Chief Executive.

The committee received documentary evidence in the form of excerpts from the printed record of the testimony taken and published by the Special Subcommittee on Investigations for the Committee on Government Operations, oral testimony by Senator MCCARTHY in his own behalf, and received documentary evidence offered by him from the reports of the Internal Security Subcommittee and the Committee on the Judiciary of the Senate wherein Government workers were invited to supply certain information to congressional committees.

From the aforementioned relevant and competent evidence and testimony so adduced, the select committee regards the following as having been established:

That at the hearings of the Permanent Subcommittee on Investigations for the Committee on Government Operations, following an attempt by Senator MCCARTHY to question Secretary Stevens about the "2½-page document," and following questioning by certain members of that subcommittee, relative to the legality of his receiving and using the document, the Senator made the replies or statements which are the subject of this category of charges.

At those hearings Senator MCCARTHY took the position that:

"I would like to notify those 2 million Federal employees that I feel it is their duty to give us any information which they have about graft, corruption, communism, treason, and that there is no loyalty to a superior officer which can tower above and beyond their loyalty to their country * * *" (hearing record, p. 87).

"Again, I want to compliment the individuals who have placed their oaths to defend the country against enemies—and certainly Communists are enemies—above and beyond any Presidential directive * * *" (hearings record, p. 87).

"I think that the oath which every person in this Government takes, to protect and defend this country against all enemies, foreign and domestic, that oath towers far above any Presidential secrecy directive. And I will continue to receive information such as I received the other day * * *" (hearing record, p. 87).

"That I have instructed a vast number of these employees that they are dutybound to give me information even though some little bureaucrat has stamped it 'secret' to protect himself" (hearing record, p. 87).

"I don't think any Government employee can deny the people the right to know what the facts are by using a rubber stamp and stamping something 'secret'" (hearing record, p. 89).

"While I am chairman of the committee I will receive all the information I can get about wrongdoing in the executive branch" (p. 89 of the hearings).

"I think that oath to defend our country against all enemies foreign and domestic towers above and beyond any loyalty you might have to the head of a bureau or the head of a department" (p. 90 of the hearings).

"I am an authorized person to receive information in regard to any wrongdoing in the executive branch. When you say 'classified document,' Mr. SYMINGTON, certainly I am not authorized to receive anything which would divulge the names of, we will say, informants, of Army Intelligence, anything which would in any way compromise their investigative technique, and that sort of thing. * * *" (p. 91 of the hearings).

"No one can deny us information by stamping something 'classified'" (p. 92 of the hearings).

"Any committee which has jurisdiction over a subject has the right to receive the information. The stamp on the document, I would say, is not controlling * * *" (p. 92 of the hearings).

"Anyone who has evidence of wrongdoing, has not only the right but the duty to bring that evidence to a congressional committee" (p. 92 of the hearings).

That the Senator, at the hearings of the select committee, admitted making some of the foregoing statements charged against him (pp. 261–263 of the hearings), and did not deny having made the others. At these hearings, Senator McCarthy took an affirmative position relative to the following question of Senator Ervin:

"Senator, when you made the statement which Mr. de Furia characterized as an invitation to the employees of the executive departments, did you mean to invite those employees to bring to you, as chairman of the investigating subcommittee, information relating to corruption, wrongdoing, communism, or treason in Government, even though such employees could find such information only in documents marked 'classified' by the department in which such employees were working?

"By Senator McCarthy. Yes" (hearing record p. 417).

In addition to the foregoing, which the committee believes to have been established, the select committee received the following additional evidence and testimony:

Senator McCarthy testified in his own behalf that—

"I was not asking for general classified information. I was only asking for evidence of wrongdoing. I was asking these people to conform with the criminal code which requires they give that evidence" (p. 262 of the hearings).

"When I invited them to give the chairman of that committee evidence of wrongdoing, I am inviting them not to violate their oath of office but to conform to their oath of office * * *" (pp. 263 and 264 of the hearings).

"I confined this information with regard to illegal activities on the part of Federal employees. It did not include general classified material * * * that as chairman of the Government Operations Committee and the investigation committee, if I did not try to get that information, then I should be subject to censure" (p. 265 of the hearings).

"I feel very strongly that if someone in the executive knows of wrongdoing, of a crime being committed, and they do not bring it to someone who will act on it they are almost equally guilty * * * and let me emphasize again I am not asking for general classified information; I am merely asking for evidence of wrongdoing. I maintain that you cannot hide wrongdoing by using a rubber stamp, stamping 'Confidential,' 'Secret,' or 'Top Secret'—I don't care what classification they stamp upon it—as long as it is evidence of wrongdoing" (p. 266 of the hearings).

"I am referring here, obviously, to valid information" (p. 394 of the hearings).

The Senator contended that the following statutes permitted, even imposed a duty upon, Federal employees to give to him the information so requested:

Title V, United States Code, section 652 (d) (p. 264 of the hearings).

Title XVIII, United States Code, section 4 (p. 265 of the hearings).

Title XVIII, United States Code, section 798 (p. 395 of the hearings).

Senator McCarthy further stated that the position which he took was not new or unprecedented, but that the Vice President (then Congressman), Nixon, took a position much stronger, and the then Senator Hugo Black in 1934 took a similar position to the one presently taken by him (p. 267 of the hearings). He introduced into the record excerpts from a report of the Committee on the Judiciary, 1951, "Subversive and Illegal Aliens in the United States," wherein the subcommittee invited the employees of the Immigration and Naturalization Service to report to the subcommittee laxity in enforcement of immigration laws or other matters affecting national security; and also parts of a report of the Internal Security Subcommittee, "Interlocking Subversion in Government Departments," wherein Government workers were invited to supply information of subversion to the Federal Bureau of Investigation or the congressional committees (pp. 418 and 419 of the hearings).

B. Legal Issue[s] Involved

The select committee believes that the charges in this category, and the evidence and testimony thereunder adduced, give rise to the following legal or quasi-legal question:

[1.] Whether Senator McCarthy openly invited, incited, and urged employees of the Government of the United States to report to him information coming to their attention without distinction to whether or not contained in a classified document; and thereby to violate (a) their oath of office, (b) the law of the United States, (c) Executive orders and directives.

Senator McCarthy contended at the hearings of the select committee, and by a brief submitted to the committee by his counsel, that he had not requested "classified" information, but only information relating to "graft, corruption, Communist infiltration and espionage" and that such information "could not be insulated from exposure by a rubber stamp." He asserts that by statute (title V, U. S. C., sec. 652 (9)) Federal employees are not precluded from furnishing such information to a Member of Congress; indeed, by virtue of title XVIII, United States Code, section 4, such employees have a duty to give such information. He further contends that as chairman of the Committee on Government Operations, a duty is imposed upon him by the Senate itself to get such information, and that in seeking this information he was doing no more than had been done in the past by other Senators and senatorial committees.

The committee believes that from a reading of the entire section 652 of title V, it will appear that this portion of the Civil Service Act of 1912 does no more than affirm that Federal employees do not lose or forfeit any of their rights merely by virtue of their Federal employment. A study of title XVIII, section 4, by the committee leads it to the conclusion that it applies only to persons possessing actual personal knowledge of the actual commission of a felony, as distinguished from information obtained by reviewing files.

As to the alleged precedents of other Senators and senatorial committees, the committee has taken note of the statements contained in the reports of certain senatorial committees cited by Senator McCarthy, as expressing the official opinion of the members of such committees. The committee was of the opinion that any similar statements of other Senators are expressions of individuals and do not establish senatorial precedent unless confirmed by official action.

The charges contained in this category involve the right of the legislative branch of the Government to investigate the executive branch and to be informed of the operations of that branch. This committee believes that the principles, frequently enunciated by the Senate and its committees, sustaining the right of the Congress to be informed of all pertinent facts with respect to the operations of the executive branch should not be relaxed; and any contrary view is hereby disavowed. These principles certainly embrace information of wrongdoing in the executive branch of a general nonclassified nature, and the right of employees to inform the Congress of the same.

The precedents do show with certitude, however, that the Congress has the constitutional power to investigate activities in the executive branch to determine the advisability of enacting new laws directed to such activities, or to determine whether existing laws directed to such activities are being executed in accordance with the congressional intent. To these ends the Congress may make investigations into allegedly corrupt or subversive activities in executive agencies or departments. The power to investigate such activities necessarily carries with it the power to receive information relating to such activities.

By the Reorganization Act of 1946, the Congress conferred upon the Senate Committee on Government Operations express authority to study "the operation of Government activities at all levels with a view to determining its economy and efficiency," and also that "Each such (standing) committee may make investigations into any matter within its jurisdiction."

In so doing Congress delegated, in part, to the Senate Committee on Government Operations its constitutional power to make investigations into alleged corruption or subversion in executive agencies or departments. The Senate Committee on Government Operations elected to exercise this delegated power through its Permanent Subcommittee on Investigations, whose chairman was Senator McCarthy.

The committee is immediately concerned with the conduct of Senator McCarthy rather than with the conduct of employees of the executive branch. The President no doubt has power to safeguard from public dissemination, by Executive order or otherwise, information affecting, for example, the national defense, notwithstanding that the regulations might indirectly interfere with any secret transmission line between the executive employees and any individual Member of the Congress. But the President, we think, cannot (nor do we believe he has sought by any order or directive called to our attention) deny to the Congress, or any duly organized committee or subcommittee thereof, and particularly the Committee on Government Operations of the Senate, any information, even though classified, if it discloses corruption or subversion in the executive branch.

This, we think, is true on the simple basis that the Congress is entitled to receive such information in the exercise of its investigatory power under the Constitution. The Congress, too, is charged with the responsibility for the welfare of the Nation.

What the executive branch may rightfully expect is that the coequal legislative branch, or its authorized committees, will inform the President, or his specially designated subordinate (ultimately the Attorney General), of the request, and that the desired information will be supplied subject to the protectives customarily thrown around classified documents by such committees.

In receiving such information, however, the Congress should refrain from thwarting or impeding the proper efforts of executive agencies, charged with duties incident to discovering, prosecuting, or punishing corruption or subversion in Government, or charged with safeguarding secrets involving the national defense.

However, the committee is equally of the view that the manner of approaching this important aspect of investigation in the light of the peculiar dangers of this hour must be taken into account. The executive branch is initially peculiarly charged with inquiry into and suppression of insidious infiltrations of subversives into its own departments and agencies; this responsibility is a delicate and necessarily confidential one, because it involves the clearing of loyal personnel as well as the identification and elimination of disloyal employees. It also involves techniques of investigation which must be kept secret to be effective.

For this reason, there has been developed, under pressure of necessity, a system by which certain information, involving the national security, is protected in the executive

branch by a machinery of classification, to insure that such information will remain confidential, as against unauthorized revelation or publication by employees, officers, or other agents of the executive branch.

If this system, which has expanded during recent years to keep step with the danger, were to be presented to the Congress as an iron curtain, denying to properly authorized agencies or persons (in which class the Congress and its committees are to be placed first) any right of access, a situation would be presented against which this committee would protest with all its power, as other committees have protested in the past. This we would regard as a challenge to the coequal powers of the legislative branch.

If on the other hand the Executive has recognized the prerogatives of the Congress, and incidentally other agencies of Government, even in the executive department itself, to be informed of classified material or information, by orderly and formal application to responsible heads of departments or to the Presidential office itself, then the committee believes another problem of orderly constitutional government may be presented, and that the Senate itself would be the first to respect the necessary right of the Executive to protect its special functions, so long as the equally important powers of the legislative branch are not unduly impeded thereby.

We would be of the view that for the executive department, even the President himself, to deny to a properly constituted committee or subcommittee of the Senate or any Senator operating with authority in the matter, facts involving wrongdoing in any executive department, might well offer a proper ground for challenging such decision, on the broadest and soundest constitutional grounds. But by the same token, a failure of the Congress or any Member to adapt itself or himself, to reasonable regulations by the President or his authorized department heads (for example, the Department of Defense or the Federal Bureau of Investigation), with respect to matters involving national security, might readily expose the Congress to an equally sound criticism.

In this connection, it is apparent that Congress itself, by specific legislation, has expressed an intent to protect documents relating to national security, and to prevent unauthorized disclosures of such information contained therein. At the same time, the executive branch, by departmental orders and Presidential directives ("not inconsistent with law") has expressed a cooperative attitude, by providing an orderly method of disclosing such information to proper authorities, including, of course, the Congress, in a reasonable prescribed manner, not harmful to the Nation's interest.

(For a further consideration and discussion of these authorities by this committee, reference is made to the legal discussion contained in pt. *III* [IV], category *III–B* [3B] of this report.)

If the invitation of Senator McCarthy to the Federal employees is *a mere* [more a] solicitation of general information of wrongdoing, this committee would believe that he was within his senatorial prerogative, as there appears to be no law or Presidential order prohibiting employees of the Federal Government from giving such information to the Congress or Members thereof. Indeed, there is law which affirmatively imposes a duty upon such employees to disclose to proper authorities any actual knowledge of the commission of a felony.

A more difficult legal question is presented if the invitation of the Senator goes beyond general information of wrongdoing, and includes within its scope classified information and documents, such as the 2¼ [2½] -page document and the information contained therein. The law hereinbefore mentioned and Presidential orders would seem to prevent the receipt or disclosure of such information or documents except through established orderly procedures.

The task of considering the allegations embodied in category *II* [I] is a perplexing one because of the ambiguity of the statements made by Senator McCarthy as well as because of the difficulty of distinguishing between the constitutional power of the Congress to investigate the executive branch and the constitutional power of the President to withhold information from the Congress.

The statements of Senator McCarthy are susceptible of alternative constructions.

The first construction is that Senator McCarthy merely invited employees of the executive branch to bring to him as chairman of the Senate Committee on Government Operations and as chairman of its Permanent Subcommittee on Investigations, information acquired by them in the ordinary course of their employment having a logical tendency to disclose corrupt or subversive activities in governmental areas.

The second construction is that Senator McCarthy in effect urged employees of the executive branch to ransack confidential files of executive agencies or departments regardless of whether they had lawful access to those files, and bring to him classified documents the confidential retention of which in those files was necessary to enable the executive agencies charged with such duties to discover, prevent, or bring to justice persons guilty of corrupt or subversive activities in governmental areas.

If his statements were susceptible of the second construction alone, Senator McCarthy might well merit the censure of the Senate upon the allegations embodied in category *II*, [I] for the conduct reflected by the second construction would evince an irresponsibility unworthy of any Senator and particularly of a Senator occupying the chairmanship of the Senate Committee on Government Operations and its Permanent Subcommittee on Investigations.

Since his statements admit of the alternative construction set out above, however, the select committee feels justified in giving Senator McCarthy the benefit of the first or more charitable construction.

In receiving information relating to corruption or subversion in the executive branch under the circumstances delineated in the first construction, that is, without irregular and possibly illegal use of classified documents, the chairman of the Senate Committee on Government Operations and of its Permanent Subcommittee on Investigations would be exercising the investigatory power vested in the Congress by the Constitution. This would be true even though employees of the executive branch should communicate such information to him in disobedience to Presidential orders.

The committee does not overlook the allegation that the statements of Senator McCarthy were tantamount to incitement to employees of the executive branch to violate the provisions of the Espionage Act embraced in 18 United States Code 793 (d) (e), which are couched in this language:

"(d) Whoever having lawful possession of * * * any * * * information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States * * * willfully communicates * * * the same to any person not entitled to receive it * * * shall be fined not more than $10,000 or imprisoned not more than 10 years, or both.

"(e) Whoever having unauthorized possession of * * * any * * * information relating to the national defense which information the possesor has reason to believe could be used to the injury of the United States * * * willfully communicates * * * the same to any person not entitled to receive it * * * shall be fined not more than $10,000 or imprisoned not more than 10 years, or both."

These statutory provisions do not define who is entitled to receive information relating to the national defense. Moreover, the code leaves to conjecture the question whether the definition embodied in 18 United States Code 798 (b) applies to 18 United States Code 793 (d) (e). Since it is a cardinal rule of statutory construction that statutes defining crimes are to be construed strictly against the Government and it does not appear that the chairman of the Senate Committee on Government Operations and its Permanent Subcommittee on Investigations is a "person not entitled to receive" information relating to the national defense, within the purview of 18 United States Code 793 (d) (e), the select committee is of the opinion that the statements of Senator McCarthy cannot assuredly be deemed, under all the facts before us, to constitute an incitement to employees of the executive branch to violate the provisions of the Espionage Act embraced in 18 United States Code 793 (d) (e).

C. Findings of the Committee

After carefully considering, evaluating, and weighing the evidence and testimony presented at the hearings, and construing the applicable legal principles involved, the select committee is of the opinion—

1. That, insofar as Senator McCarthy invited Federal employees to supply him with general information of wrongdoing, not of a classified nature, he was acting within his prerogative as a United States Senator and as head of an investigative arm of the United States Senate, and was not inviting such employees to violate their oath of office, Presidential orders, or any law.

2. That the invitation of Senator McCarthy, made during the hearings before the Special Subcommittee on Investigations of the Committee on Government Operations and affirmed and reasserted at the hearings before the select committee, is susceptible to the interpretation that it was sufficiently broad by specific language and necessary implication to include information and documents properly classified by executive department heads as containing information affecting the national security.

3. However, the select committee is convinced that the invitation so made, affirmed, and reasserted by Senator McCarthy was motivated by a sense of official duty and not uttered as the fruit of evil design or wrongful intent.

4. That were the invitation as made, affirmed, and reasserted to be acted upon by the Federal employees, as to classified material affecting the national security, the orderly and constitutional functioning of the executive and legislative branches of the Government would be unduly disrupted and impeded, and this select committee warns such employees that such conduct involves the risk of effective penalties.

D. Conclusions

The select committee feels compelled to conclude that the conduct of Senator McCarthy in inviting Federal employees to supply him with information, without expressly excluding therefrom classified documents, tends to create a disruption of the orderly and constitutional functioning of the executive and legislative branches of the Government, which tends to bring both into disrepute. Such conduct cannot be condoned and is deemed improper.

However, the committee, preferring to give Senator McCarthy the benefit of whatever doubts and uncertainties may have confused the issue in the past, and in recognition of the Senator's responsibilities as chairman of the Committee on Government Operations and its Permanent Subcommittee on Investigations, does not feel justified in proposing his acts in this particular to the Senate as ground for censure.

The committee recommends that the leadership of the Senate endeavor to arrange a

meeting of the chairman and the ranking minority members of the standing committees of the Senate with responsible departmental heads in the executive branch of the Government in an effort to clarify the mechanisms for obtaining such restricted information as Senate committees would find helpful in carrying out their duly authorized functions and responsibilities.

III

Category III. Incidents involving receipt or use of confidential or classified document or other confidential information from executive files

A. Summary of Evidence

The evidence adduced before this committee relating to this charge was evolved from the testimony before the Special Subcommittee on Investigations for the Committee on Government Operations (Mundt committee), together with some testimony taken at hearings of this select committee.

The charge is based upon the specifications contained in amendment (d) proposed by Senator MORSE (hearing record, p. 3) and amendment (13) proposed by Senator FLANDERS (hearing record, p. 6).

The charge or charges inherent in these specifications are—

1. That Senator MCCARTHY received and used confidential information unlawfully obtained from an executive department classified document, and failed to restore the document.

2. That in so doing he was in possible violation of the Espionage Act.

3. That he offered such information to a Senate subcommittee in the form of a spurious document.

The evidence supporting these charges was in part derived in documentary form from the record of the Mundt subcommittee hearings held in April, May, and June 1954, and in part oral testimony presented before the select committee.

It is the opinion of the select committee that competent, relevant, and material testimony has been submitted before the committee to support the charge that Senator MCCARTHY, before the Mundt subcommittee, produced what purported to be a copy of a letter from J. Edgar Hoover, Director of the Federal Bureau of Investigation, to Major General Bolling, Assistant Chief of Staff, G2, Army, bearing the typed words "Personal and Confidential via Liaison," asserting it had been in the Army files (hearing records, pp. 95 and 96) and suggesting this was one of a series of letters from the FBI to the Army complaining "about the bad security setup at" the Fort Monmouth Signal Corps Laboratory, and giving information on certain individuals (hearing record, p. 96); that Mr. Hoover, after examining the "letter," which was dated January 26, 1951, declared that the "letter" was not a carbon copy or a copy of any communication prepared or sent by the FBI to General Bolling (hearing record, p. 99) but that "the letter" contained information identical in some respects with that contained in a 15-page interdepartmental memorandum from the FBI to General Bolling of the Army, dated January 26, 1951, marked "Confidential via Liaison"; also that Mr. Hoover had stated that "confidential" was the highest classification that could be put on a document by the FBI (hearing record, p. 110). It is also established that Senator MCCARTHY urged that the document, 2¼ pages in length, which he had received from an Army Intelligence officer be made available to the public (hearing record, p. 111).

It is further established that Attorney General Brownell, on May 13, 1954, advised Chairman MUNDT by letter that the 2¼-page document was not authentic; that portions of the 2¼-page document which were taken verbatim from the 15-page interdepartmental memorandum are classified "confidential" by law; this means they must not be disclosed "in the best interests of the national security * * *. It would not be in the public interest to declassify the document or any part of it at the present time" (hearing record, p. 116). The Attorney General further stated that "if the 'confidential' classification of the FBI reports and memoranda is not respected, serious and irreparable harm will be done to the FBI" (hearing record, p. 116).

Despite the fact that the Attorney General had ruled that the document was a classified document, Senator MCCARTHY insisted that all security information had been deleted from it, and a request was made by his attorney as follows:

"Mr. WILLIAMS. I want to read it, sir, because there is no security information in it.

"The CHAIRMAN. Are you offering it in evidence?

"Mr. WILLIAMS. Yes" (p. 314 of the hearings).

But Senator MCCARTHY suggested that the names contained in the document be deleted (p. 326 of the hearings). This committee received the document into the possession of the chairman, without making public the contents (p. 327 of the hearings) upon the advice of the Attorney General that the document was a security document and could not be declassified (p. 327 of the hearings). This committee thereupon ruled that the 2¼-page document is a security document and that the information contained in it should be kept classified (p. 328 of the hearings).

Clifford J. Nelson, of the Internal Security Division of the Department of Justice, testified that in January 1951 the word "confidential" was the only classification officially recognized by the FBI (p. 510 of the hearings); and that there was no regulation requiring any particular way of imprinting the classification designation on the document or paper (p. 511 of the hearings); and that it was not necessary for Government agencies "to go through their files and * * * declassify restricted information" when a new classification order was promulgated (p. 513 of the hearings).

Senator MCCARTHY's position was that the names contained in the document were not security information (p. 389 of the hearings); he requested that, in accordance with the rule of his committee, the names be deleted if the document be made public, "unless * * * the individual named can appear * * * and answer the charges against him" (p. 389 of the hearings). His position also was that he had presented the document to the Mundt committee in good faith believing it was a copy of a letter in the Army files, it being self-evident that certain information had been deleted (pp. 397 and 417 of the hearings). Finally, he insisted that the document and the information contained therein were not classified until Attorney General Brownell "classified it during the McCarthy hearings"; and "that it was not classified from the time I received it until the time that Brownell either classified it or attempted to classify it" (p. 432 of the hearings); "it did not disclose any secrets of our national defense of any kind" (p. 433 of the hearings).

B. Legal Issues Involved

1. What were the statutes, Executive orders, and directives applicable to the 2¼-page letter or document?

2. Was the 2¼-page letter or document or the information therein classified?

3. Was it proper for Senator MCCARTHY to attempt to make the 2¼-page letter or document public?

Congress has long recognized the need for providing legislation authorizing the heads of executive departments to make regulations relative to records and papers within their departments. As early as the act of June 22, 1874 (R. S., sec. 161, U. S. C., title 18, sec. 22), the Congress authorized the heads of executive departments to prescribe regulations, not inconsistent with law, controlling the conduct of its officers and clerks, and the custody, use, and preservation of its records and papers.

This early act is cited by the Department of Justice Order No. 3229, filed May 2, 1946 (11 Fed. Reg. 4920, 18 Fed. Reg. 1368), protecting official files, documents, records, and information in the offices of the Department, including the Federal Bureau of Investigation, as "confidential," by providing that "no officer or employee may permit the disclosure or use of the same for any purpose except in the discretion of the Attorney General."

To the same effect, Presidential directive of March 13, 1948, 13 Federal Register 1359, which was apparently in effect in May and June 1953; and the subsequent Executive Order No. 10290 of September 24, 1951, setting up a system of classification "to the extent not inconsistent with law." The regulations promulgated by such order expressly apply only to classified security information, which term is restricted to official information which requires safeguarding in the interest of national security. It restricts the dissemination of classified information outside the executive branch, but authorizes the Attorney General on request to interpret such regulations, in connection with any problem arising thereunder.

Of particular import is the Department of Justice order of April 23, 1948, directed to the "Heads of all Government Departments, Agencies and Commissions" (see testimony of Clifford J. Nelson, of the Department of Justice, hearing record, p. 512) providing as follows:

"As you are aware, the Federal Bureau of Investigation from time to time makes available to Government departments, agencies and commissions information gathered by the Federal Bureau of Investigation which is of interest to such departments, agencies or commissions. These reports and communications are confidential. All such reports and communications are the property of the Federal Bureau of Investigation and the subject at all times to its control and to all privileges which the Attorney General has as to the use or disclosure of documents of the Department of Justice. Any department, agency or commission receiving such reports or communications is merely a custodian thereof for the Federal Bureau of Investigation, and the documents or communications are subject to recall at any time.

"Neither the reports and communications nor their contents may be disclosed to any outside person or source without specific prior approval of the Attorney General or of the Assistant to the Attorney General or an Assistant Attorney General acting for the Attorney General.

"Should any attempt be made, whether by request or subpena or motion for subpena or court order, or otherwise, to obtain access to or disclosure of any such report or communication, either separately or as a part of the files and records of a Government department, agency, or commission, and reports and communications involved should be immediately returned to the Federal Bureau of Investigation in order that a decision can be reached by me or by my designated representative in each individual instance as to the action which should be taken."

This order, providing that all reports and communications are confidential and shall remain the property of and in the control of the FBI, was effective in January of 1951.

Executive Order 10501, dated November 5, 1953, also undertakes to safeguard official information in the interest of national defense, and also commits to the Attorney General the interpreting of the regulations in connection with the problems arising out of their administration.

We mention in this connection the Espionage Act of June 25, 1948 (ch. 645, 62 Stat. 736; 18 U. S. C., secs. 793 (d) and (e); also ch. 645, 62 Stat. 736, 18 U. S. C. 792; also 18 U. S. C., sec. 4, ch. 645, 62 Stat. 684; also ch. 645, 62 Stat. 811, amended May 24, 1949, ch. 139, sec. 46, 69 Stat. 96, 18 U. S. C. 2387). (a) (1) (2) and (b) (cited in the brief of committee counsel, supplement to the record, p. 545 of hearing record) as showing a legislative intent to protect documents relating to national security, to prevent concealment of felonies; to forbid publications or disclosures not authorized by law by any officer or employee of the United States of information coming to him in the course of his employment or official duty.

These statutes are referred to here as affirmative evidence of congressional cooperation with the Executive, in a common effort to discourage unauthorized disclosures of confidential documents or information relating to the national defense, or obtained in the course of official duties; and to prevent interference with or impairment of the loyalty or discipline of the Armed Forces.

All the cited statutes, Executive orders, and directives are applicable to the 2¼-page letter or document.

In determining whether the letter or document was classified or contained classified information, reference must be made to the facts which have been established that the contents of this letter or document was taken from the 15-page interdepartmental memorandum dated January 15, 1951, from the FBI to the Army marked and classified confidential; that the letter or document in some respects contained identical language with that of the 15-page memorandum; and that Senator McCarthy knew in May of 1953 when he acquired the 2¼-page letter or document that it had been in part extracted from a document containing security information and, therefore, a classified document. It must be admitted, and in fact was so admitted by Senator McCarthy's counsel, that the material copied from a classified document retains the same classification as the document from which it is copied (hearing record, p. 753). It follows that the 2¼-page document retains the character of a classified document. While Senator McCarthy contends that the deletion of certain information from the 2¼-page document renders it an unclassified document, this position overlooks the legal necessity that declassification can only be effected by a legally constituted authority. Furthermore, the Attorney General has formally ruled that the document still contains security information. The committee, after examining the document, likewise has agreed that the 2¼-page document contains security information.

Apart from these considerations, the established facts show that Senator McCarthy attempted to make public over nationwide television the contents of a document which he believed emanated from the Federal Bureau of Investigation to the Intelligence Department of the Army regarding possible espionage in a defense installation and which bore a classified or confidential marking. This conduct on his part shows a disregard of the evident purpose to be served by such a document and overlooks the serious import which attaches to a document affecting the national defense, and the dangers flowing from causing such information to become public knowledge. This transgression is nonetheless grave even though the Senator personally may have been, as he contends, of the opinion that the document did not contain security information. This disposition on the part of Senator McCarthy to determine for himself what is or is not security information regardless of the evident classified marking on a document, confirmed by the opinion of a duly constituted agency authorized to make such a ruling, evidences a lack of regard for responsibility to the laws and regulations providing for orderly determination of such matters. This conduct on the part of Senator McCarthy is all the more serious when considered in the light of the act of June 25, 1948 (ch. 645, 62 Stat. 736, title 18, sec. 793 (d) and (e)) which provides that whoever having lawful or unauthorized possession of any document relating to national defense or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States, attempts to communicate the same to persons not entitled to receive it, is an offender against the criminal laws of the country.

We believe under the facts and our conception of the law that the 2¼-page document was a legally classified document entitled to the protection and respect legally surrounding such a document, and binding on all civil and military officers of the Government, as well as on all employees of the Government.

Such a conclusion is not inconsistent with the further view that representatives of the legislative branch have a complete legal right to obtain access to such documents by using the methods available to them to get such information by formal request to the classifying agency or to the Attorney General or to the President himself. It is only when such orderly methods are rebuffed that an issue between two coequal branches of the Government can or should develop.

It follows that any attempt to make public the contents or any portion of this 2¼-page document, affecting national security, would be a transgression upon authority. When Senator McCarthy offered to make public this document, which he knew involved information irregularly obtained and which on its face carried a classification of "confidential" by the FBI, it was an assumption of authority which itself is disruptive of orderly governmental processes, violative of accepted comity between the two great branches of our Government, the executive and legislative, and incompatible with the basic tenets of effective democracy.

C. Findings of the Committee

1. During the hearings before the Permanent Subcommittee on Investigations of the Committee on Government Operations, Senator McCarthy, in the course of the development of his defense, offered to make public the contents of a document bearing the markings of the Federal Bureau of Investigation, "Personal and Confidential via Liaison," which contained classified information relating to the national defense. This offer was not accepted by the committee.

2. In offering to make the contents of the document public, Senator McCarthy acted in the bona fide belief that the document was a valid rather than a spurious instrument and offered it in evidence as such.

D. Conclusions

The committee concludes that in offering to make public the contents of this classified document Senator McCarthy committed grave error. He manifested a high degree of irresponsibility toward the purposes of the statutes and Executive directives prohibiting the disclosure to unauthorized persons of classified information or information relating to the national defense. He should have applied in advance to the Attorney General for express permission to use the document in his defense under adequate safeguards, or to the committee to receive its contents in evidence in an executive rather than an open session. The committee recognizes, however, that at the time in question Senator McCarthy was under the stress and strain of being tried or investigated by the subcommittee. He offered the document in this investigation, which was then being contested at every step by both sides. The contents of the document were relevant to the subject matter under inquiry, in our opinion.

These mitigating circumstances are such that we do not recommend censure on the specifications included in category III.

It is the opinion of this committee that it will not serve the necessary purposes of this inquiry to make public the 2¼-page document or any part of the contents thereof. If the committee had been of different opinion, the chairman would have been authorized, in light of the opinions of the Attorney General, still adhered to by the latter officer (p. 116 of the hearings), to direct a request to the President for authority to declassify the same. Pending the final action of the Senate in this matter, the committee has directed its chairman to retain physical possession of this document, in confidence. Unless the Senate otherwise directs, it will be surrendered to the Federal Bureau of Investigation for such disposition as shall be proper after the Senate has concluded its consideration of Senate Resolution 301.

IV

Category IV. Incidents involving abuses of colleagues in the Senate

A. General Discussion and Summary of Evidence

Pursuant to the category designated by the select committee, "Incidents Involving Abuses of Colleagues in the Senate," it received evidence and took testimony relating to—

Amendment proposed by Mr. Flanders to the resolution (S. Res. 301) to censure the Senator from Wisconsin, Mr. McCarthy, viz:

"(30) He has ridiculed his colleagues in the Senate, defaming them publicly in vulgar and base language (regarding Senator Hendrickson—'a living miracle without brains or guts'; on Flanders—'Senile—I think they should get a man with a net and take him to a good quiet place')."

Amendment proposed by Mr. Morse to the resolution (S. Res. 301) to censure the Senator from Wisconsin, Mr. McCarthy, viz:

"(b) Unfairly accused his fellow Senators Gillette, Monroney, Hendrickson, Hayden, and Hennings of improper conduct in carrying out their duties as Senators."

The alleged abuses of senatorial colleagues, considered in this category, result from certain oral and written statements of Senator McCarthy directed by him to and about certain fellow Members of the Senate, and center around the following specific charges:

1. That Senator McCarthy publicly ridiculed and defamed Senator Hendrickson in vulgar and base language by calling him "* * * a living miracle without brains or guts."

2. That Senator McCarthy publicly ridiculed and defamed Senator Flanders in vulgar and base language by saying of him "Senile—I think they should get a man with a net and take him to a good quiet place."

3. That Senator McCarthy unfairly accused Senators Gillette, Monroney, Hendrickson, Hayden, and Hennings of improper conduct in carrying out their senatorial duties.

As relating to this category, the select committee received documentary evidence in the form of correspondence between Senator McCarthy and the Subcommittee on Privileges and Elections, testimony taken before and published by the Permanent Subcommittee on Investigations of the Committee on Government Operations, being part of the Army-McCarthy hearings, the testimony of two reporters, certain other record evidence, and the testimony of Senator McCarthy in his own behalf.

We point out that for convenience, and by reason of related subject matter, the select committee has already considered and disposed of two of the charges contained in this category, being the charge that Senator McCarthy publicly ridiculed and defamed

Senator HENDRICKSON, in vulgar and base language, being No. 1 above mentioned, and the charge that Senator MCCARTHY unfairly accused Senators GILLETTE, MONRONEY, HENDRICKSON, HAYDEN, and HENNINGS of improper conduct in carrying out their senatorial duties, being No. 3 above mentioned. These two charges have already been considered and reported upon in this report under I—"Incidents of Contempt of the Senate or a Senatorial Committee." The discussion under this category IV, therefore, will be restricted to the one charge contained in the amendment proposed by Senator FLANDERS (30), that Senator MCCARTHY publicly ridiculed and defamed Senator FLANDERS, in vulgar and base language, by calling him "senile."

The evidence shows that on June 11, 1954, Senator FLANDERS walked into the Senate caucus room where Senator MCCARTHY was testifying before a vast television audience in the Army-McCarthy hearings, and unexpectedly gave Senator MCCARTHY notice of an intended speech attacking Senator MCCARTHY which he proposed forthwith to deliver on the Senate floor; that shortly thereafter Senator MCCARTHY was asked by the press to comment on Senator FLANDERS' intended speech; that Senator MCCARTHY thereupon made this remark concerning Senator FLANDERS: "I think they should get a man with a net and take him to a good quiet place"; and that on occasions prior to that time Senator FLANDERS made provocative speeches in respect to Senator MCCARTHY on the Senate floor.

B. Conclusions

The remarks of Senator MCCARTHY concerning Senator FLANDERS were highly improper. The committee finds, however, that they were induced by Senator FLANDERS' conduct in respect to Senator MCCARTHY in the Senate caucus room, and in delivering provocative speeches concerning Senator MCCARTHY on the Senate floor. For these reasons, the committee concludes the remarks with reference to Senator FLANDERS do not constitute a basis for censure.

V

Category V. Incident relating to Ralph W. Zwicker, a general officer of the Army of the United States

A. General Discussion and Summary of Evidence

This category refers to the question whether Senator MCCARTHY should be censured for his treatment of Gen. Ralph W. Zwicker, in connection with General Zwicker's appearance before the Senator as a witness.

The pertinent proposed amendments are that of Senator FULBRIGHT:

"(4) Without justification, the junior Senator from Wisconsin impugned the loyalty, patriotism, and character of Gen. Ralph Zwicker."

And that of Senator MORSE:

"(c) As chairman of a committee, resorted to abusive conduct in his interrogation of Gen. Ralph Zwicker, including a charge that General Zwicker was unfit to wear the uniform, during the appearance of General Zwicker as a witness before the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations on February 18, 1954."

And that of Senator FLANDERS:

"(10) He has attacked, defamed, and besmirched military heroes of the United States, either as witnesses before his committee or under the cloak of immunity of the Senate floor (General Zwicker, General Marshall)."

The select committee restricted its hearings to the case of General Zwicker. Its reasons for not inquiring into the case of remarks made against General Marshall appear in part VI of this report.

In his capacity as chairman of the Permanent Subcommittee on Investigations, Senator MCCARTHY held hearings to determine whether there were espionage activities in the radar laboratory at Fort Monmouth. General Zwicker was summoned as a witness and appeared on February 18, 1954, at a hearing held in New York, N. Y.

The evidence on this phase consisted of the records of both a public and executive hearing, the testimony of William J. Harding, Jr., who was a spectator at the public hearing, the testimony of Senator McCarthy and of General Zwicker, the testimony of Gen. Kirke B. Lawton, and of Capt. William J. Woodward, a medical officer who accompanied General Zwicker to the hearings, and of James M. Juliana and C. George Anastos, of the staff of the Permanent Subcommittee on Investigations.

There is no dispute concerning the reported testimony of General Zwicker and the questions, statements, and comments of Senator MCCARTHY during the hearings. General Zwicker attended a public hearing, as a spectator, in the morning of February 18, 1954, and testified as a witness at an executive session late that afternoon. There is dispute as to the attitude and truthfulness of General Zwicker, the statements made to and about him by Senator MCCARTHY at the conclusion of the executive session and concerning alleged utterances of General Zwicker prior to his testimony.

Gen. Kirke B. Lawton testified to a conversation which he had with General Zwicker at Camp Kilmer sometime before General Zwicker was called as a witness. It was charged that General Lawton was "gagged" by his military superiors, but after General Lawton testified, it became clear that his inability to give details of his conversation with General Zwicker was not the result of any military secrecy order but was the result of his inability to remember any of the details of the conversation. General Lawton testified that General Zwicker gave him the impression of being generally opposed to Senator MCCARTHY or the Senator's method in investigation. He could not remember any words used by General Zwicker but was permitted to testify to his general impression and conclusion as to the effect of General Zwicker's remarks.

William J. Harding, Jr., who was a spectator at the morning public session of the hearing held by Senator MCCARTHY in New York on February 18, 1954, testified that he was seated near General Zwicker. In the morning session, General Zwicker also was a spectator. Mr. Harding stated that Senator MCCARTHY addressed a question to General Zwicker, who was then seated in the audience, and that General Zwicker replied to the question. As General Zwicker seated himself, after replying to the Senator's question, Mr. Harding testified that the general muttered under his breath the letters "s. o. b." with reference to Senator MCCARTHY.

James M. Juliana and C. George Anastos, members of the staff of the Permanent Subcommittee on Investigations, were called as witnesses by the select committee. Mr. Juliana testified that he saw General Zwicker at Camp Kilmer on February 13, 1954, 5 days before the appearance of General Zwicker as a witness before Senator MCCARTHY in New York. On February 13, 1954, Mr. Juliana received from General Zwicker a copy of the Army order directing the honorable discharge of Maj. Irving Peress. In the New York hearing, Senator MCCARTHY tried to establish who was responsible for the advancement of Peress from captain to major, and who was responsible for his separation and discharge from the military service, the latter having occurred after he had claimed the protection of the fifth amendment as to his Communist connections and activities, at a hearing before Senator MCCARTHY. (The separation order was read into the record at these hearings before the select committee.) Mr. Juliana also testified that his copy of the Peress separation order was produced at the hearing of February 18, 1954, and handed by him either to Senator MCCARTHY, or to Roy M. Cohn, counsel for the subcommittee.

Under examination by counsel for Senator MCCARTHY, Mr. Juliana stated that when he talked to General Zwicker, General Zwicker said that he had been in contact with Washington, prior to discharging Major Peress on February 2, 1954, relative to the Peress matter, and that he, Mr. Juliana, had so informed Senator MCCARTHY prior to February 18, 1954.

C. George Anastos testified that he talked with General Zwicker about the Peress case, by telephone on January 22, 1954. General Zwicker gave him the name of Peress, and stated that the file showed there was information that Peress and his wife [was] *were* or had been [a Communist,] *Communists*, and that in August 1953 Peress had refused to answer a loyalty questionnaire. There was reference made also, according to Mr. Anastos, to an Army effort to get Peress out of the service. This testimony is in contrast with that of General Zwicker that he did not give to Mr. Anastos any information contained in the Peress classified personnel file. The next day, according to Mr. Anastos, General Zwicker called him voluntarily and told him of the Peress separation order.

Major Peress was examined by Chairman MCCARTHY on January 30, 1954. He had been promoted on November 2, 1953. He received an honorable discharge on February 2, 1954.

It was the contention of Senator MCCARTHY that General Zwicker was most arrogant, very irritating, and evasive, that he was untruthful in his testimony, and that he was "covering up" for his superiors. General Zwicker stood upon his testimony and contended that he had been truthful in all respects and as frank as he could be in view of the military restrictions upon his testimony. General Zwicker also contended that Senator MCCARTHY had full knowledge of General Zwicker's attitude and conduct with reference to the Peress case, and that this made Senator MCCARTHY's treatment of him unjustified and unwarranted. General Zwicker appeared as a witness at the invitation of the select committee.

B. Findings of Fact

From the evidence and testimony taken with reference to this fifth category, the select committee finds the following facts:

1. In connection with this incident, Senator MCCARTHY was acting as chairman of the Senate Committee on Government Operations and chairman of its Permanent Subcommittee on Investigations (pp. 69 and 182 of the hearings).

2. Ralph W. Zwicker is a brigadier general of the Army of the United States, a graduate of West Point Military Academy, and an Army officer since 1927 (p. 80 of the hearings).

3. From July 1953 to August 1954, General Zwicker was the commanding officer at Camp Kilmer, an Army separation center (pp. 70 and 81 of the hearings).

4. Senator MCCARTHY began looking into the Peress matter in November 1953 (p. 182 of the hearings).

5. In late November or December 1953, General Zwicker had a conversation with Gen. Kirke B. Lawton, and gave General Lawton the impression that he was antagonistic toward Senator MCCARTHY (p. 438 of the hearings).

6. On January 22, 1954, C. George Anastos, a member of the staff of the Permanent Subcommittee on Investigations, talked to General Zwicker by telephone; the general gave him the name of Peress and made some reference to the latter's Communist connections (p. 519 of the hearings).

7. This information was reported to Roy Cohn and Frank Carr of the subcommittee staff (p. 519 of the hearings).

8. On February 13, 1954, General Zwicker talked to James C. Juliana, another member of the subcommittee's staff, and gave to Mr. Juliana a copy of the Peress separation order (p. 515 of the hearings).

9. This copy was available to Senator McCarthy at the New York hearing of February 18, 1954 (pp. 79, 515, and 516 of the hearings).

10. On the same date, General Zwicker also told Mr. Juliana that he was opposed to giving Peress an honorable discharge and had been in touch with Washington about the matter (p. 517 of the hearings).

11. This was reported by Mr. Juliana to Senator McCarthy some days before February 18, 1954 (pp. 188, 189, 333, and 517 of the hearings).

12. Major Peress was summoned to appear before the permanent subcommittee by request made on January 26, 1954, and appeared on January 30, 1954 (p. 183 of the hearings).

13. Senator McCarthy and General Zwicker met for the first time on February 18, 1954 (p. 330 of the hearings).

14. They had a pleasant social conversation during the lunch intermission (p. 456 of the hearings).

15. There was a public hearing during the morning of February 18, 1954, attended by General Zwicker as a spectator (p. 455 of the hearings).

16. During this morning session, William J. Harding, Jr., testified, after General Zwicker had answered a question of Senator McCarthy, that he heard General Zwicker mutter under his breath, "You s. o. b., and (turning to his companions) said, "You see. I told you what we'd get" (p. 179 of the hearings).

17. General Zwicker testified he had no recollection of and knew of no reason for making such an utterance (p. 456 of the hearings).

18. Senator McCarthy did not know of the Harding incident when he examined General Zwicker (p. 204 of the hearings).

19. General Zwicker was called as a witness at an executive session before Senator McCarthy, sitting as a subcommittee of one, about 4:30 p. m. on February 18, 1954 (pp. 69 and 190 of the hearings).

20. At the beginning of the hearing, under examination by Mr. Cohn, General Zwicker testified that if he were in a position to do so, that he would be glad to tell what steps he took "and others took at Kilmer to take action against Peress a long time before action was finally forced by the committee," and that the information would not reflect unfavorably on General Zwicker or "on a number of other people at Kilmer and the First Army" (p. 70 of the hearings).

21. Senator McCarthy then took over the examination of General Zwicker in an effort to bring out that the general's information, if given in evidence, "would reflect unfavorably on some of them, of course" (p. 70 of the hearings).

22. Senator McCarthy then ordered the witness to reply to the question whether somebody kept Peress on, knowing he was a Communist, and General Zwicker responded that he respectfully declined to answer since he was not permitted to do so under the Presidential directive (p. 70 of the hearings).

23. General Zwicker tried unsuccessfully to have this Presidential directive read at the hearing before Senator McCarthy (p. 354 of the hearings).

24. Senator McCarthy stated that he was familiar with the provisions of the Presidential directive (p. 354 of the hearings).

25. The Presidential directive of March 13, 1948, provided:

"In order to insure the fair and just disposition of loyalty cases * * * reports rendered by the Federal Bureau of Investigation and other investigative agencies of the executive branch are to be regarded as confidential * * * and files relative to the loyalty of employees * * * shall be maintained in confidence * * *."—Harry S. Truman.

(P. 457 of the hearings.)

26. Senator McCarthy then asked General Zwicker whether he knew on the day an honorable discharge was signed for Peress that Peress had refused to answer certain questions before the subcommittee, and General Zwicker replied: "No, sir, not specifically on answering any questions, I knew he had appeared before your committee" (p. 70 of the hearings).

27. When asked whether he "knew generally that he [Peress] had refused to tell whether he was a Communist," General Zwicker replied: "I don't recall whether he refused to tell whether he was a Communist" (p. 71 of the hearings).

28. General Zwicker testified that he had read the press releases about Peress, and knew that Peress had taken refuge in the fifth amendment, but that he did not know specifically that Peress had refused to answer questions about his Communist activities (p. 71 of the hearings).

29. Senator McCarthy then told the witness: "General, let's try and be truthful. I am going to keep you here as long as you keep hedging and hemming" (p. 71 of the hearings).

30. The following then occurred:

"General Zwicker. I am not hedging.

"The Chairman. Or hawing.

"General Zwicker. I am not hawing, and I don't like to have anyone impugn my honesty, which you just about did.

"The Chairman. Either your honesty or your intelligence; I can't help impugning one or the other, when you tell us that a major in your command who was known to you to have been before a Senate committee, and of whom you read the press releases very carefully—to now have you sit here and tell us that you did not know whether he refused to answer questions about Communist activities. I had seen all the press releases, and they all dealt with that. So when you do that, General, if you will pardon me, I cannot help but question either your honesty or your intelligence, one or the other. I want to be frank with you on that.

"Now, is it your testimony now that at the time you read the stories about Major Peress, that you did not know that he had refused to answer questions before this committee about his Communist activities?

"General Zwicker. I am sure I had that impression.

"The Chairman. Were you aware that the major was being given an honorable discharge * * *.

"The Chairman. Did you also read the stories about my letter to Secretary of the Army Stevens in which I requested or, rather, suggested that this man be court-martialed, and that anyone that protected him or covered up for him be court-martialed?

"General Zwicker. Yes, sir" (pp. 71 and 72 of the hearings).

31. As to the Peress discharge, General Zwicker testified:

"The Chairman. Who ordered his discharge?

"General Zwicker. The Department of the Army.

"The Chairman. Who in the Department?

"General Zwicker. That I can't answer.

"Mr. Cohn. That isn't a security matter?

"General Zwicker. No. I don't know. Excuse me.

"Mr. Cohn. Who did you talk to? You talked to somebody?

"General Zwicker. No; I did not.

"Mr. Cohn. How did you know he should be discharged?

"General Zwicker. You also have a copy of this. I don't know why you asked me for it. This is the order under which he was discharged, a copy of that order."

And also:

"The Chairman. Did you take any steps to have him retained until the Secretary of the Army could decide whether he should be court-martialed?

"General Zwicker. No, sir.

"The Chairman. Did it occur to you that you should?

"General Zwicker. No, sir.

"The Chairman. Could you have taken such steps?

"General Zwicker. No, sir.

"The Chairman. In other words, there is nothing you could have done; is that your statement?

"General Zwicker. That is my opinion" (p. 72 of the hearings).

32. The Peress discharge order was dated January 18, 1954, was received by General Zwicker on January 23, 1954, and provided:

"a. That Peress be relieved from active duty and honorably discharged.

"b. That this be at the desire of Peress 'but in any event not later than 90 days from date of receipt of this letter' " (p. 454 of the hearings).

33. Major Peress asked for his discharge on February 1, 1954, and he was discharged the next day (p. 483 of the hearings).

34. Senator McCarthy had read the Peress discharge order, and knew about it on February 2, 1954 (pp. 199 and 333 of the hearings).

35. Senator McCarthy then examined General Zwicker as follows:

"The Chairman. Let me ask this question. If this man, after the order came up, after the order of the 18th came up, prior to his getting an honorable discharge, were guilty of some crime—let us say that he held up a bank or stole an automobile, and you heard of that the day before, let's say you heard of it the same day that you heard of my letter—could you then have taken steps to prevent his discharge, or would he have automatically been discharged?

"General Zwicker. I would have definitely taken steps to prevent discharge.

"The Chairman. In other words, if you found that he was guilty of improper conduct, conduct unbecoming an officer, we will say, then you would not have allowed the honorable discharge to go through, would you?

"General Zwicker. If it were outside the directive of this order?

"The Chairman. Well, yes; let's say it were outside the directive.

"General Zwicker. Then I certainly would never have discharged him until that part of the case——

"The Chairman. Let us say he went out and stole $50 the night before.

"General Zwicker. He wouldn't have been discharged.

"The Chairman. Do you think stealing $50 is more serious than being a traitor to the country as part of the Communist conspiracy?

"General Zwicker. That, sir, was not my decision.

"The Chairman. You said if you learned that he stole $50, you would have prevented his discharge. You did learn something much more serious than that. You learned that he had refused to tell whether he was a Communist. You learned that the chairman of a Senate committee suggested that he be court-martialed. And you say if he had stolen $50 he would not have gotten the honorable discharge. But merely being a part of the Communist conspiracy, and the chairman of the committee asking that he be court-martialed, would not give you grounds for holding up his discharge. Is that correct?

"General Zwicker. Under the terms of this letter, that is correct, Mr. Chairman.

"The Chairman. That letter says nothing about stealing $50, and it does not say anything about being a Communist. It does not say anything about his appearance before

our committee. He appeared before our committee after that order was made out.

"Do you think you sound a bit ridiculous, General, when you say that for $50, you would prevent his being discharged, but for being a part of the conspiracy to destroy this country you could not prevent his discharge?

"General ZWICKER. I did not say that, sir.

"The CHAIRMAN. Let's go over that. You did say if you found out he stole $50 the night before, he would not have gotten an honorable discharge the next morning?

"General ZWICKER. That is correct.

"The CHAIRMAN. You did learn, did you not, from the newspaper reports, that this man was part of the Communist conspiracy, or at least that there was strong evidence that he was. Didn't you think that was more serious than the theft of $50?

"General ZWICKER. He has never been tried for that, sir, and there was evidence, Mr. Chairman——

"The CHAIRMAN. Don't you give me that doubletalk. The $50 case, that he had stolen the night before, he has not been tried for that.

"General ZWICKER. That is correct. He didn't steal it yet.

"The CHAIRMAN. Would you wait until he was tried for stealing the $50 before you prevented his honorable discharge?

"General ZWICKER. Either tried or exonerated.

"The CHAIRMAN. You would hold up the discharge until he was tried or exonerated?

"General ZWICKER. For stealing the $50; yes.

"The CHAIRMAN. But if you heard that this man was a traitor—in other words, instead of hearing that he had stolen $50 from the corner store, let's say you heard that he was a traitor, he belonged to the Communist conspiracy; that a Senate committee had the sworn testimony to that effect. Then would you hold up his discharge until he was either exonerated or tried?

"General ZWICKER. I am not going to answer that question, I don't believe, the way you want it, sir.

"The CHAIRMAN. I just want you to tell me the truth.

"General ZWICKER. On all of the evidence or anything that had been presented to me as Commanding General of Camp Kilmer, I had no authority to retain him in the service."

And also:

"The CHAIRMAN. You say that if you had heard that he had stolen $50, then you could order him retained. But when you heard that he was part of the Communist conspiracy, that subsequent to the time the orders were issued a Senate committee took the evidence under oath that he was part of the conspiracy, you say that would not allow you to hold up his discharge?

"General ZWICKER. I was never officially informed by anyone that he was part of the Communist conspiracy, Mr. Senator.

"The CHAIRMAN. Well, let's see now. You say that you were never officially informed?

"General ZWICKER. No.

"The CHAIRMAN. If you heard that he had stolen $50 from someone down the street, if you did not hear it officially, then could you hold up his discharge? Or is there some peculiar way you must hear it?

"General ZWICKER. I believe, so, yes, sir; until I was satisfied that he had or hadn't, one way or the other.

"The CHAIRMAN. You would not need any official notification so far as the 50 bucks is concerned?

"General ZWICKER. Yes.

"The CHAIRMAN. But you say insofar as the Communist conspiracy is concerned, you need an official notification?

"General ZWICKER. Yes, sir; because I was acting on an official order, having precedence over that.

"The CHAIRMAN. How about the $50? If one of your men came in a half hour before he got his honorable discharge and said, 'General, I just heard downtown from a police officer that this man broke into a store last night and stole $50,' you would not give him an honorable discharge until you had checked the case and found out whether that was true or not; would you?

"General ZWICKER. I would expect the authorities from downtown to inform me of that or, let's say, someone in a position to suspect that he did it.

"The CHAIRMAN. Let's say one of the trusted privates in your command came in to you and said, 'General, I was just downtown and I have evidence that Major Peress broke into a store and stole $50.' You wouldn't discharge him until you had checked the facts, seen whether or not the private was telling the truth and seen whether or not he had stolen the $50?

"General ZWICKER. No; I don't believe I would. I would make a check, certainly, to check the story" (pp. 73–74 of the hearings).

36. The examination then proceeded on a further hypothetical basis as follows:

"The CHAIRMAN. Do you think, General, that anyone who is responsible for giving an honorable discharge to a man who has been named under oath as a member of the Communist conspiracy should himself be removed from the military?

"General ZWICKER. You are speaking of generalities now, and not on specifics—is that right, sir, not mentioning about any one particular person?

"The CHAIRMAN. That is right.

"General ZWICKER. I have no brief for that kind of person, and if there exists or has existed something in the system that permits that, I say that that is wrong.

"The CHAIRMAN. I am not talking about the system. I am asking you this question, General, a very simple question: Let's assume that John Jones, who is a major in the United States Army——

"General ZWICKER. A what, sir?

"The CHAIRMAN. Let's assume that John Jones is a major in the United States Army. Let's assume that there is sworn testimony to the effect that he is part of the Communist conspiracy, has attended Communist leadership schools. Let's assume that Maj. John Jones is under oath before a committee and says, 'I cannot tell you the truth about these charges because, if I did, I fear that might tend to incriminate me.' Then let's say that General Smith was responsible for this man receiving an honorable discharge, knowing these facts. Do you think that General Smith should be removed from the military, or do you think he should be kept on in it?

"General ZWICKER. He should be by all means kept if he were acting under competent orders to separate that man.

"The CHAIRMAN. Let us say he is the man who signed the orders. Let us say General Smith is the man who originated the order.

"General ZWICKER. Originated the order directing his separation?

"The CHAIRMAN. Directing his honorable discharge.

"General ZWICKER. Well, that is pretty hypothetical.

"The CHAIRMAN. It is pretty real, General.

"General ZWICKER. Sir, on one point; yes. I mean, on an individual, yes. But you know that there are thousands and thousands of people being separated daily from our Army.

"The CHAIRMAN. General, you understand my question——

"General ZWICKER. Maybe not.

"The CHAIRMAN. And you are going to answer it.

"General ZWICKER. Repeat it.

"The CHAIRMAN. The reporter will repeat it.

"(The question referred to was read by the reporter.)

"General ZWICKER. That is not a question for me to decide, Senator.

"The CHAIRMAN. You are ordered to answer it, General. You are an employee of the people.

"General ZWICKER. Yes, sir.

"The CHAIRMAN. You have a rather important job. I want to know how you feel about getting rid of Communists.

"General ZWICKER. I am all for it.

"The CHAIRMAN. All right. You will answer that question, unless you take the fifth amendment. I do not care how long we stay here, you are going to answer it.

"General ZWICKER. Do you mean how I feel toward Communists?

"The CHAIRMAN. I mean exactly what I asked you, General; nothing else. And anyone with the brains of a 5-year-old child can understand that question.

"The reporter will read it to you as often as you need to hear it so that you can answer it, and then you will answer it.

"General ZWICKER. Start it over, please.

"(The question was reread by the reporter.)

"General ZWICKER. I do not think he should be removed from the military.

"The CHAIRMAN. Then, General, you should be removed from any command. Any man who has been given the honor of being promoted to general and who says 'I will protect another general who protected Communists,' is not fit to wear that uniform, General. I think it is a tremendous disgrace to the Army to have this sort of thing given to the public. I intend to give it to them. I have a duty to do that. I intend to repeat to the press exactly what you said. So you know that. You will be back here, General" (pp. 75 and 76 of the hearings).

37. At page 77 of the hearings, the following occurred:

"The CHAIRMAN. Did you at any time ever object to this man being honorably discharged?

"General ZWICKER. I respectfully decline to answer that, sir.

"The CHAIRMAN. You will be ordered to answer it.

"General ZWICKER. That is on the grounds of this Executive order.

"The CHAIRMAN. You are ordered to answer. That is a personnel matter.

"General ZWICKER. I shall still respectfully decline to answer it.

"The CHAIRMAN. Did you ever take any steps which would have aided him in continuing in the military after you knew that he was a Communist?

"General ZWICKER. That would have aided him in continuing, sir?

"The CHAIRMAN. Yes.

"General ZWICKER. No.

"The CHAIRMAN. Did you ever do anything instrumental in his obtaining his promotion after knowing that he was a fifth-amendment case?

"General ZWICKER. No, sir.

"The CHAIRMAN. Did you ever object to his being promoted?

"General ZWICKER. I had no opportunity to, sir.

"The CHAIRMAN. Did you ever enter any objection to the promotion of this man under your command?

"General ZWICKER. I have no opportunity to do that.

"The CHAIRMAN. You say you did not; is that correct?

"General ZWICKER. That is correct.

"The CHAIRMAN. And you refuse to tell us whether you objected to his obtaining an honorable discharge?

"General ZWICKER. I don't believe that is quite the way the question was phrased before.

"The CHAIRMAN. Well, answer it again, then.

"General ZWICKER. I respectfuly request that I not answer that question.

"The CHAIRMAN. You will be ordered to answer.

"General ZWICKER. Under the same authority as cited before, I cannot answer it."

38. At the hearings before the select committee, Senator MCCARTHY testified that General Zwicker was evasive (p. 193 of the hearings), that he changed his story (p. 192 of the hearings), that he was difficult to examine (p. 192 of the hearings), that it was "a long, laborious truth-pulling job," and that he was "most arrogant" (pp. 193 and 204 of the hearings).

39. As stated by the chairman and other members of the select committee, these were matters of argument (p. 195 of the hearings).

40. The transcript of the New York hearing shows that Senator MCCARTHY said to General Zwicker: "Then, General, you should be removed from any command. Any man who has been given the honor of being promoted to general and who says, 'I will protect another general who protected Communists', is not fit to wear that uniform, General," and Senator MCCARTHY testified he was referring to the uniform of a general (pp. 202 and 332 of the hearings).

41. General Zwicker did not make any such statement.

42. Senator MCCARTHY testified that General Zwicker had said in effect: "It is all right to give Communists honorable discharges" (p. 202 of the hearings).

43. There is no testimony in this record which justifies such a conclusion.

44. When asked to give the facts on which he based his testimony that General Zwicker was an unwilling witness, arrogant and evasive, Senator MCCARTHY reiterated his conclusion that: "All I can say is the full attitude was one of complete arrogance, complete contempt of the committee" (p. 204 of the hearings).

45. Senator MCCARTHY testified that he was justified in his treatment of General Zwicker solely by the latter's conduct at the hearing in New York (p. 330 of the hearings).

46. He testified further that he had not criticized General Zwicker and it was "just a method of cross-examination, trying to get the truth" (p. 331 of the hearings).

47. Senator MCCARTHY refused to draw any inference but that General Zwicker was not telling the truth (specifically excluding perjury, p. 337 of the hearings), as follows:

"Mr. DE FURIA. Now, assuming, Senator, that for the sake of this question, anyhow, that General Zwicker did testify in what we might call a stilted fashion, don't you think that the fair inference, rather than to say that the general was deliberately telling an untruth, or stalling, or distorting facts, that the fair, judicious inference was that he couldn't do very much else in the face of the Presidential orders and the other orders of his superiors; isn't that the fair way to look at it, Senator?

"Senator MCCARTHY. No, Mr. de Furia. When a general comes before me, first says, 'I didn't know this man refused to answer any questions,' then after he is pressed under cross-examination, he says, 'Yes, I knew he refused to answer questions, but I didn't know he refused to answer questions about Communist activities'—then, after further cross-examination, he says, 'Yes, I know that he refused to answer questions about Communist activities'—I can't assume that is the result of any Presidential directive. We cannot blame the President for that."

48. Before examining General Zwicker, Senator MCCARTHY knew that General Zwicker was opposed to giving Peress an honorable discharge (p. 342 of the hearings) and Senator MCCARTHY had received a long letter from the Secretary of the Army giving a full explanation of the Peress case (pp. 459 and 462 of the hearings).

49. Senator MCCARTHY contended at the hearings before the select committee that matters in the Peress personnel file could be revealed by General Zwicker (p. 344 of the hearings) and that General Zwicker was not relying on any Presidential order (p. 344 of the hearings).

50. Later, Senator MCCARTHY testified that General Zwicker was relying on Presidential and Executive orders, and that he, Senator MCCARTHY, had copies of them (pp. 347 and 354 of the hearings).

51. Immediately after General Zwicker had testified in New York, Senator MCCARTHY gave to the press his version of what had occurred at the executive hearing (p. 348 of the hearings).

52. Senator MCCARTHY could not recall whether he told the press that the Zwicker hearing had been held principally for the benefit of Secretary of the Army Stevens, did not think so, was reasonably certain he had not said so (p. 348 of the hearings).

53. On his right to reveal to the press what had been testified to at the Zwicker executive hearing, Senator MCCARTHY testified:

"Mr. DE FURIA. Senator, were you authorized by either the major committee or your Subcommittee on Permanent Investigations to reveal what transpired at the Zwicker executive hearing?

"Senator MCCARTHY. I discussed the matter with the representatives of the two Senators who were present and we agreed, in view of the Stevens' statement, it should be released.

"Mr. DE FURIA. You say you discussed it with the representatives of the two Senators?

"Senator MCCARTHY. That is correct.

"Mr. DE FURIA. In spite of the rules of your own committee that all testimony taken in executive session shall be kept secret and will not be released or used in public session without the approval of the majority of the subcommittee?

"Senator MCCARTHY. I felt that the two men who were present were representing the Senators and they constituted a majority. There were only four Senators on the committee at that time.

"Mr. DE FURIA. In a matter involving a general of the United States, then, you permitted an administrative assistant to exercise the prerogatives of the United States Senate?

"Senator MCCARTHY. I think I have recited the facts to you" (pp. 349 and 350 of the hearings).

And also:

"Senator MCCARTHY. May I say further, Mr. de Furia, in answer to your question, that General Zwicker had already released a distorted version of the testimony, through Bob Stevens, in affidavit form. I felt under the circumstances that the correct version should be released.

"Mr. DE FURIA. Why, Senator, you released this first 2 or 3 minutes after your hearing concluded, did you not?

"Senator MCCARTHY. No; I did not. It was the transcript.

"Mr. DE FURIA. You called in the press, did you not, right away?

"Senator MCCARTHY. I did not.

"Mr. DE FURIA. To tell them what had happened in the executive session?

"Senator MCCARTHY. Mr. de Furia, if you want to know what the practice was here, and what the practice is——

"Mr. DE FURIA. I do not want the practice.

"Senator MCCARTHY. I did not release the transcript.

"Mr. DE FURIA. I am not talking about the transcript. But you did tell the press what happened in the closed executive session, within a few minutes after that session ended?

"Senator MCCARTHY. I gave them a résumé of the testimony; yes.

"Mr. DE FURIA. Sir, I am asking you, upon what authority, or by what right, you did that?

"Senator MCCARTHY. Because that has been our practice.

"Mr. DE FURIA. In spite of the rule of your own committee?

"Senator MCCARTHY. That has been the practice of the committee.

"Mr. DE FURIA. General Zwicker's affidavit was not made until 2 days later; isn't that right, Senator? It is dated February 20.

"Senator MCCARTHY. I don't know what date it is dated, but the transcript was not released until after the distorted version of the testimony given by Zwicker.

"Mr. WILLIAMS. Do you have the rule there, Mr. de Furia?

"Mr. DE FURIA. Yes, I have the rule, and I would like to have it in evidence, if the chairman please.

"The CHAIRMAN. It will be received" (p. 350 of the hearings).

54. The rules of the Senate Committee on Government Operations, adopted January 14, 1953, provided:

"6. All testimony taken in executive session shall be kept secret and will not be released or used in public session without the approval of a majority of the subcommittee" (p. 352 of the hearings).

55. At that time the subcommittee consisted of seven members (p. 353 of the hearings).

56. During the executive session, Senator MCCARTHY said with reference to General Zwicker: "This is the first fifth-amendment general we've had before us" (p. 451 of the hearings).

57. After the executive session, Senator MCCARTHY said to General Zwicker:

"General, you will be back on Tuesday, and at that time I am going to put you on display and let the American public see what kind of officers we have" (p. 451 of the hearings).

58. The facts concerning Peress' Communist connections were known to General Zwicker's superior officers when he was directed to discharge Peress (p. 492 of the hearings).

59. General Zwicker was not responsible in any way for promoting or discharging Peress and was very much opposed to both (pp. 505 and 506 of the hearings).

60. Major Peress was not in a sensitive position so far as intelligence or classified information or material was concerned (p. 505 of the hearings).

C. Legal Questions Involved in This Category

The legal questions arising with reference to the incident relating to General Zwicker may be stated briefly, as follows:

1. Is there any evidence that General Zwicker was not telling the truth in testifying before Chairman MCCARTHY?

2. Is there any evidence that General Zwicker was intentionally irritating or evasive or arrogant?

3. What is the law governing the treatment of witnesses before congressional committees?

4. Was the conduct of Senator MCCARTHY toward General Zwicker proper under the circumstances?

1. There is no evidence that General Zwicker was not telling the truth in testifying before Chairman MCCARTHY

We have analyzed carefully the testimony of General Zwicker, of Senator MCCARTHY, and of the other witnesses relating to this question. We have concluded that General Zwicker, when he appeared as a witness before Senator MCCARTHY, on February 18, 1954, was a truthful witness. We feel that it was evident that his examination was unfair, and that General Zwicker testified as fully and frankly as he could do, in view of the Presidential and Army directives which restricted his freedom of expression. These directives were known to his examiners, and however much they may have been out of sympathy with the directives, the fact remains that this was no excuse for berating General

Zwicker and holding him up to public ridicule.

General Zwicker testified before the select committee. He underwent a vigorous and taxing cross-examination from Senator McCARTHY's counsel. A reading of his testimony and examination makes it clear that in no material respect was it necessary for General Zwicker to modify or change his testimony from that given on February 18, 1954, and that the double exposure of his evidence under searching examination revealed no distortion of fact or untruth.

2. There is no evidence that General Zwicker was intentionally irritating, evasive, or arrogant

General Zwicker was initially examined at the New York hearing by Mr. Cohn, counsel for the subcommittee. It is evident that this examination was mutually courteous and satisfactory. Mr. Juliana and Mr. Anastos, of the staff of the subcommittee, both found General Zwicker to be cooperative and helpful. Even in his examination by Senator McCARTHY, the record shows that the general was courteous and respectful throughout the hearing. We find in the record no single instance which supports the conclusion that he was intentionally irritating. Some questions General Zwicker refused to answer and in his answers to some of the questions, apparently, he meticulously sought to avoid the disclosure of material or information in the classified personnel file of Peress, or involving intra-Army discussions and policies, which he was under orders not to reveal. It should not have been difficult to meet this situation in a fair and reasonable way. Senator McCARTHY said he was familiar with the Presidential order and the Army directives. A few moments could have been taken to analyze them, and so frame the questions propounded to the witness as to avoid any difficulty. The insistence that the witness answer long hypothetical questions and questions that are not clear even upon careful inspection and reflection, was much more the source of any resulting irritation on the part of the examiner than any conduct on the part of the witness.

Moreover, when he was before this committee, General Zwicker was subjected to a long and vigorous cross-examination and manifested great patience and candor and a complete lack of any tendency toward arrogance or irritability.

3. The law governing the treatment of witnesses before congressional committees

The law and precedent on this subject has been stated many times. Senate Document No. 99, 83d Congress, 2d session, 1954, on Congressional Power of Investigation gives an excellent summary of the law and procedure. Pertinent articles in current legal literature on the subject may be found in American Bar Association Journal, September 1954, at page 763, the Investigating Power of Congress: Its Scope and Limitations; Ohio Bar, August 9, 1954, at page 607, a Comparison of Congressional Investigative Procedures and Judicial Procedures With Reference to the Examination of Witnesses; and Federal Bar Journal, April–June 1954, page 113, Executive Privilege and the Release of Military Records. These articles are mentioned only as source material and do not necessarily express or contain the views of the select committee.

There are no statutes and few court decisions bearing on the subject (Dimock, Congressional Investigation Committees, p. 153 (1929)). There are few safeguards for the protection of the witness. His treatment usually depends and must depend upon the skill and attitude of the chairman and the members. Since an investigation by a committee is not a trial, the committee is under no compulsion to make the hearing public.

We call attention to three cases in the Federal courts discussing this subject. *Barksy* v. *United States* (167 F. (2d) 241 (1948)) was a prosecution for failure to produce records before a congressional committee pursuant to subpena. The court stated, at page 250:

"(14–17) Appellants press upon us representations as to the conduct of the congressional committee, critical of its behavior in various respects. Eminent persons have stated similar views. But such matters are not for the courts. We so held in *Townsend* v. *United States*, citing *Hearst* v. *Black*. The remedy for unseemly conduct, if any, by the committees of Congress is for Congress, or for the people; it is political and not judicial. 'It must be remembered that legislatures are ultimate guardians of the liberties and welfare of the people in quite as great a degree as the courts.' The courts have no authority to speak or act upon the conduct by the legislative branch of its own business, so long as the bounds of power and pertinency are not exceeded, and the mere possibility that the power of inquiry may be abused 'affords no ground for denying the power.' The question presented by these contentions must be viewed in the light of the established rule of absolute immunity of governmental officials, congressional and administrative, from liability for damage done by their acts or speech, even though knowingly false or wrong. The basis of so drastic and rigid a rule is the overbalancing of the individual hurt by the public necessity for untrammeled freedom of legislative and administrative activity within the respective powers of the legislature and the executive."

In *Townsend* v. *U. S.* (95 F. (2d) 352 (1938)), the defendant was convicted of failure to appear before a congressional committee.

In affirming the conviction, the court said, at page 361:

"(14–17) A legislative inquiry may be as broad, as searching, and as exhaustive as is necessary to make effective the constitutional powers of Congress (*McGrain* v. *Daugherty* (273 U. S. 135, 47 S. Ct. 319, 71 L. Ed. 580, 50 A. L. R. 1)). A judicial inquiry relates to a case, and the evidence to be admissible must be measured by the narrow limits of the pleadings. A legislative inquiry anticipates all possible cases which may arise thereunder, and the evidence admissible must be responsive to the scope of the inquiry, which generally is very broad. Many a witness in a judicial inquiry has, no doubt, been embarrassed and irritated by questions which to him seemed incompetent, irrelevant, immaterial, and impertinent. But that is not a matter for a witness finally to decide. Because a witness could not understand the purpose of cross-examination, he would not be justified in leaving a courtroom. The orderly processes of judicial determination do not permit the exercise of such discretion by a witness. The orderly processes of legislative inquiry require that the committee shall determine such questions for itself. Within the realm of legislative discretion, the exercise of good taste and good judgment in the examination of witnesses must be entrusted to those who have been vested with authority to conduct such investigations (*Hearst* v. *Black* (66 App. D. C. 313, 87 F. (2d) 68))."

Under these authorities, the Senate alone can review this record and determine, in justice to itself and to General Zwicker, whether the bounds of propriety, consonant with the lawful purpose of the subcommittee's investigation and fair and reasonable standards of senatorial conduct, were transgressed by Senator McCARTHY in his examination of the general at New York on February 18, 1954, and later in his testimony before this committee.

The select committee is of the opinion that the very fact that "the exercise of good taste and good judgment" must be entrusted to those who conduct such investigations places upon them the responsibility of upholding the honor of the Senate. If they do not maintain high standards of fair and respectful treatment the dishonor is shared by the entire Senate.

4. The conduct of Senator McCARTHY toward General Zwicker was not proper under the circumstances

In the opinion of this select committee, the conduct of Senator McCARTHY toward General Zwicker was not proper. We do not think that this conduct would have been proper in the case of any witness, whether a general or a private citizen, testifying in a similar situation.

Senator McCARTHY knew before he called General Zwicker to the stand that the Judge Advocate General of the Army, who was the responsible person under the statutes, had given the opinion that a court-martial of Major Peress would not stand under the applicable regulations and that General Zwicker had been directed by higher authority to issue an honorable discharge to Peress upon his application.

Senator McCARTHY knew that General Zwicker was a loyal and outstanding officer who had devoted his life to the service of his country, that General Zwicker was strongly opposed to Communists and their activities, that General Zwicker was cooperative and helpful to the staff of the subcommittee in giving information with reference to Major Peress, that General Zwicker opposed the Peress promotion and opposed the giving to him of an honorable discharge, and that he was testifying under the restrictions of lawful Executive orders.

Under these circumstances, the conduct of Senator McCARTHY toward General Zwicker in reprimanding and ridiculing him, in holding him up to public scorn and contumely, and in disclosing the proceedings of the executive session in violation of the rules of his own committee, was inexcusable. Senator McCARTHY acted as a critic and judge, upon preconceived and prejudicial notions. He did much to destroy the effectiveness and reputation of a witness who was not in any way responsible for the Peress situation, a situation which we do not in any way condone. The blame should have been placed on the shoulders of those culpable and not attributed publicly to one who had no share in the responsibility.

D. Conclusions

The select committee concludes that the conduct of Senator McCARTHY toward General Zwicker was reprehensible, and that for this conduct he should be censured by the Senate.

VI

Charges not included in the public hearings

Senate Resolution 301 provides that the committee "shall be authorized to hold hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate, to require by subpena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, and to take such testimony as it deems advisable, and that the committee be instructed to act and make a report * * *."

At the outset of our deliberations, the committee decided, preliminarily, that it was advisable to proceed with hearings upon 13 of the charges in the various proposed amendments, classified into the 5 major categories outlined in the notice of hearing. The other charges, however, remained pending before the committee and its staff. We have studied them in the light of the law and testimony developed in the hearings and have also investigated the evidence suggested in the charges. The committee thereafter confirmed its tentative decision not to conduct hearings on these other items. The committee believes it desirable under the resolution from which its powers and duties stem, to express its reasons for determining

that formal hearings need not be conducted on these remaining charges.

The committee eliminated some of the charges for reasons of legal insufficiency, having concluded that the particular conduct charged was not in its judgment a proper basis for Senate censure. The determination of what constituted "legal insufficiency" in the context of a charge intended to support a proposed motion to censure a Member of the United States Senate was the most difficult task imposed upon this committee. No precedents found by the committee were particularly helpful in connection with this task. The path is narrow and the guideposts few.

Only three Senators have previously been censured by the Senate. Two, Senators McLaurin and Tillman, in 1902, for abusive and provocative language and engaging in a physical altercation on the floor of the Senate. The third, Senator Hiram Bingham, was censured in 1929 for having brought into an executive session of the Finance Committee's meeting on the tariff bill, as his aide, the assistant to the president of the Connecticut Manufacturers Association. The Senate found this action by Senator Bingham, "while not the result of corrupt motives" to be "contrary to good morals and senatorial ethics * * * (tending) * * * to bring the Senate into dishonor and disrepute * * *." The very paucity of precedents tends to establish the importance placed by the Senate on its machinery of censure.

Obviously, with such limited precedents the task of this committee in undertaking to determine what is and what is not censurable conduct by a United States Senator was indeed formidable. Individuals differ in their view and sensitivities respecting the propriety or impropriety of many types of conduct. Especially is this true when the conduct and its background present so many complexities and shadings of interpretations. Moreover, it is fairly obvious that conduct may be distasteful and less than proper, and yet not constitute censurable behavior.

We begin with the premise that the Senate of the United States is a responsible political body, important in the maintenance of our free institutions. Its Members are expected to conduct themselves with a proper respect for the principles of ethics and morality, for senatorial customs based on tradition, and with due regard for the importance of maintaining the good reputation of the Senate as the highest legislative body in the Nation, sharing constitutional responsibilities with the President in the appointment of officials and judges through advice and confirmation and participating in the conduct of foreign affairs through the ratification of treaties.

At the same time we are cognizant that the Senate as a political body imposes a multitude of responsibilities and duties on its Members which create great strains and stresses. We are further aware that individual Senators may, within the bounds of political propriety, adopt different methods of discharging their responsibilities to the people.

We did not, and clearly could not, undertake here to establish any fixed, comprehensive code of noncensurable conduct for Members of the United States Senate. We did apply our collective judgment to the specific conduct charged, and in some instances to the way a charge was made and the nature of the evidence preferred in support of it. And on the basis of the precedents and our understanding of what might be deemed censurable conduct in these circumstances, we determined whether, if a particular charge were established, we would consider it conduct warranting the censure of the Senate.

In concluding that certain of the charges dropped were legally insufficient for Senate censure, we do not want to be understood as saying that this committee approves of the conduct alleged. Yet disapproval of conduct does not necessarily call for official Senate censure.

The decision to eliminate any of the charges was arrived at only following extremely careful and thorough consideration. Unquestionably, one consideration underlying the elimination of these charges was the overall time factor. Under Senate Resolution 301 the select committee was directed by the Senate to hold its hearings and file its report prior to the sine die adjournment of the Senate in the 2d session of the then 83d Congress. And it was expressly contemplated that the Senate should be able to meet and consider such report at an appropriate time prior to such adjournment.

In order to abide by this direction and conform to such purpose it was necessary to narrow and confine the scope of its deliberations, and particularly of its formal hearings. The committee's study developed 12 major reasons which, singly or cumulatively, led to the elimination of these other charges from the committee's formal hearings. Only a few of these reasons, in addition to the ground of legal insufficiency, involved the passing of judgment upon the merits of any particular charge. The other reasons deal with the feasibility of the committee's attempting to investigate, document, and receive suitable testimonial evidence upon such specifications.

We set forth here the 12 general grounds upon which the other charges were dropped. Following that will be set forth, and appropriately identified, each charge eliminated, with the reasons for the omission of that particular charge indicated by a number or numbers in the right margin of the page. The numbers in the right margin correspond to the numbers of the 12 reasons for eliminating charges.

The 12 reasons applied as appropriate for eliminating particular charges are—

1. Charges which, even if fully supported and established, would not in the judgment of the committee constitute censurable conduct.

2. Charges which, even if fully supported and established after investigation would, in the judgment of the committee, be of doubtful validity as a basic for censure.

3. Charges which are too vague and uncertain, or which were too broad in apparent scope to justify formal hearings by the committee.

4. Charges reflecting largely personal opinion rather than delineating specific, concrete conduct upon which a judgment of censure could properly be based.

5. Charges which, in order to determine properly, would have required more time to investigate, document, and take testimony upon, than was practically available to this committee.

6. Charges which were substantially covered or duplicated by other charges upon which the committee actually held hearings and received evidence.

7. Charges concerning statements made on the floor of the Senate about public officials, with which statements we may disagree, but which, if held censurable, would tend to place unwarranted limitations on the freedom of speech in the Senate of the United States.

8. Charges involving such matters as the receipt by a member of a committee of payments not corresponding to the value of services rendered, from persons subject to the jurisdiction of such committee (which might be reprehensible if true, because of some implication of improper influence), but which the committee believed were not susceptible of satisfactory proof in this forum.

9. Charges of improper treatment of a particular committee witness who is presently undergoing confidential security investigation by the executive department.

10. Charges involving misconduct of the staff of a standing committee of the Senate, over which that committee as a whole has jurisdiction and primary responsibility.

11. Charges concerning matters over which other committees have already acquired jurisdiction.

12. Charges on which no substantial evidence was submitted and none could be found by the committee.

	Reason why eliminated
The charges eliminated, and the reasons therefore, are:	
Amendments proposed by the Senator from Arkansas, Mr. FULBRIGHT:	
"(1) The junior Senator from Wisconsin, while a member of the committee having jurisdiction over the affairs of the Lustron Co., a corporation financed by Government money, received $10,000 without rendering services of comparable value.	8
"(2) In public hearings, before the Senate Permanent Investigations Subcommittee, of which he was chairman, the junior Senator from Wisconsin strongly implied that Annie Lee Moss was known to be a member of the Communist Party and that if she testified she would perjure herself, before he had given her an opportunity to testify in her own behalf.	9
"(6) The junior Senator from Wisconsin in a speech on June 14, 1951, without proof or other justification made an unwarranted attack upon Gen. George C. Marshall."	7
Amendments proposed by the Senator from Oregon, Mr. MORSE:	
"(f) Attempted to invade the constitutional power of the President of the United States to conduct the foreign relations of the United States by carrying on negotiations with certain Greek shipowners in respect to foreign-trade policies, even though the executive branch of our Government had a few weeks previously entered into an understanding with the Greek Government in respect to banning the flow of strategic materials to Communist countries; and	2, 5
"(g) Permitted and ratified over a period of several months in 1953 and 1954 the abuse of senatorial privilege by Mr. Roy Cohn, chief counsel to the Permanent Investigations Subcommittee of the Senate Committee on Government Operations of which committee and subcommittee the junior Senator from Wisconsin is chairman. Mr. Cohn's abuse having been directed toward attempting to secure preferential treatment for Pvt. David Schine by the Department of the Army, at a time when the Army was under investigation by the committee."	10
Amendments proposed by the Senator from Vermont, Mr. FLANDERS:	
"(1) He has retained and/or accredited staff personnel whose reputations are in question and whose backgrounds would tend to indicate untrustworthiness (Surine, Lavinia, J. B. Matthews).	4, 5
"(2) He has permitted his staff to conduct itself in a presumptuous manner. His counsel and his consultant (Messrs. Cohn and Schine) have been insolent to other Senators, discourteous to the public, and discreditable to the Senate. His counsel and consultant traveled abroad making a spectacle of themselves and brought discredit upon the Senate of the United States, whose employees they were.	4, 5, 10

	Reason why eliminated
"(3) He has conducted his committee in such a slovenly and unprofessional way that cases of mistaken identities have resulted in grievous hardship or have made his committee, and thereby the Senate, appear ridiculous. (Annie Lee Moss, Lawrence W. Parrish, subpenaed and brought to Washington instead of Lawrence T. Parish.)	3, 4, 10
"4. He has proclaimed publicly his intention to subpena citizens of good reputation, and then never called them. (Gen. Telford Taylor, William P. Bundy, former President Truman, reporters Marder, Joseph Alsop, Friendly, Bigrant, Phillip Potter.)	1
"(5) He has repeatedly used verbal subpenas of questionable legality. (Tried to prevent State Department granting visa to William P. Bundy on ground that he was under 'oral subpena.')	2, 5
"(6) He has attempted to intimidate the press and single out individual journalists who have been critical of him or whose reports he has regarded with disfavor, and either threatened them with subpena or forced them to testify in such a manner as to raise the possibility of a breach of the first amendment of the Constitution. (Murray Marder of Washington Post; the Alsops; James Wechsler.)	4, 5
"(7) He has attempted 'economic coercion' against the press and radio, particularly the case of Time magazine, the Milwaukee Journal, and the Madison Capital Times. (On June 16, 1952, McCarthy sent letters to advertisers in Time magazine, urging them to withdraw their advertisements.)	2, 3, 5
"(8) He has permitted the staff to investigate at least one of his fellow Senators (Jackson) and possibly numerous Senators. Such material has been reserved with the obvious intention of coercing the other Senator or Senators to submit to his will, or for the purpose of inhibiting them from expressing themselves critically. (Cohn said he would 'get' Senator Jackson.)—Washington News, June 14, 1954.	4, 10
"(9) He has posed as savior of his country from communism, yet the Department of Justice reported that McCarthy never turned over for prosecution a single case against any of his alleged 'Communists.' (The Justice Department report of December 18, 1951.) Since that date not a single person has been tried for Communist activities as a result of information supplied by McCarthy.	1
"(11) He has used distortion and innuendo to attack the reputations of the following citizens: Former President Truman, Gen. George Marshall, Attorney General Brownell, John J. McCloy, Ambassador Charles E. Bohlen, Senator Raymond Baldwin, former Assistant Secretary of Defense Anna Rosenberg, Philip Jessup, Marquis Childs, Richard L. Strout of the Christian Science Monitor, Gen. Telford Taylor, and the three national press associations.	3, 4, 5
"(12) He has disclosed restricted security information in possible violation of the espionage laws. (McCarthy has made public portions of an Army Intelligence study, Soviet Siberia, which compelled the Army to declassify and release the entire document.)	4, 6, 12
"(15) He has used his official position to fix the Communist label upon all individuals and newspapers as might legitimately disagree with him or refuse to acknowledge him as the unique leader in the fight against subversion. (Deliberate slips such as calling Adlai Stevenson 'Alger'; saying that the American Civil Liberties Union had been 'listed' as doing the work of the Communist Party; calling the Milwaukee Journal and Washington Post local 'editions of the Daily Worker.')	3, 4, 5
"(16) He has attempted to usurp the functions of the executive department by having his staff negotiate agreements with a group of shipowners in London; and has infringed upon functions of the State Department, claiming that he was acting in the 'national interest.'	2, 3, 5
"(18) He has made false claims about alleged wounds which in fact he did not suffer. (Claims he was a tailgunner when, in fact, he was a Marine Air Force Ground Intelligence officer * * * claims he entered as buck private, when he entered as commissioned officer.)	1
"(19) His rude and ruthless disregard of the rights of other Senators has gone to the point where the entire minority membership of the Permanent Investigating Subcommittee resigned from the committee in protest against his highhandedness (July 10, 1953).	2
"(20) He has intruded upon the prerogative of the executive branch, violating the constitutional principles of separation of powers. (Within a single week (February 14–20, 1953) McCarthy's activities against the Voice of America forced the State Department three times to reverse administrative decisions on matters normally considered internal operating procedures: "((1) The Department had authorized the use of certain writings by pro-Communist authors as part of their program to expose Communist lies and false promises. McCarthy compelled the State Department to discontinue this practice; (2) the Department authorized its employees to refuse to talk with McCarthy's staff in the absence of McCarthy himself. It was compelled to cancel this directive; and (3) John Matson, a departmental security agent who had 'cooperated' with McCarthy, was transferred so as to be put out of reach of the Department's confidential files. McCarthy compelled the Department to return Matson to his original position.)	5
"(21) He has infringed upon the jurisdiction of other Senate committees, invading the area of the Internal Security Subcommittee and other committees of the Congress.	1, 3
"(22) He has failed to perform the solid and useful duties of the Government Operations Committee, abandoning the legitimate and vital functions of this committee.	3
"(23) He has held executive sessions in an apparent attempt to prevent the press from getting an accurate account of the testimony of witnesses, and then released his own versions of that testimony, often at variance with the subsequently revealed transcripts, and under circumstances in which the witness had little opportunity to correct or object to his version.	3, 4, 5
"(24) He has questioned adverse witnesses in public session in such a manner as to defame loyal and valuable public servants, whose own testimony he failed to get beforehand, and whom he never provided a comparable opportunity for answering the charges.	3, 5
"(25) He has barred the press and general public from executive sessions and then permitted unauthorized persons whom his whim favored to attend, in one case, a class of schoolgirls, thus holding the very principle of executive sessions up to ridicule.	3
"(26) His conduct has caused and permitted his subcommittee to be incomplete or incapacitated in its normal work for approximately 40 percent of the time that he has been its chairman. (During his 19 months as chairman of the subcommittee, his refusal to recognize their rights—later acknowledged by him—caused the minority members to leave the subcommittee on July 10, 1953, and they did not return until January 25, 1954. His personally motivated quarrel with the United States Army necessitated the interruption of the subcommittee's work and its exclusive preoccupation with the Army-McCarthy hearings from April 22, 1954, to June 17, 1954.)	2, 4, 10
"(27) He has publicly threatened publications with the withdrawal of their second-class mailing privilege because he disagreed with their editorial policy. (Washington Post, Wall Street Journal, Time magazine.) Letter to Postmaster General Summerfield made public August 22, 1953. See Washington Post, August 23, 1953.	12
"(28) He has exploited his committee chairmanship to disseminate fantastic and unverified claims for the obvious purpose of publicity. (McCarthy's hint that he was in secret communication with Lavrenti P. Beria and would produce him as a witness when Beria was on the verge of execution in Moscow.) Washington News, September 21, 1953 (announcement of plan to subpena Beria).	2
"(29) He has denied Members of Congress access to the files of the committee, to which every Member of Congress is entitled under the Reorganization Act (title II, sec. 202, par. d).	3, 11
"(31) He has announced investigations prematurely, subsequently dropping these investigations so that the question whether there was ever any serious intent to pursue them may be justifiably raised, along with the inevitable conclusion that publicity was the only purpose. (Central Intelligence Agency, Beria, etc.)	3
"(32) Checking through hearings, one will note that favorable material submitted by witnesses will usually have the notation 'May be found in the files of the subcommittee,' whereas unfavorable material is printed in the record.	3, 4, 5
"(33) He has permitted changing of committee reports and records in such a way as to substantially change or delete vital meanings. (Senator Margaret Chase Smith felt compelled to object to the filing of his 1953 subcommittee reports without their first being sent through the full committee.)"	3

VII

Bush amendment

Senate Resolution 301 submitted to the select committee for consideration contains not only the charges for censure, but also contains the amendment proposed by the Senator from Connecticut, Mr. BUSH, in regard to proposed changes in rules and procedure for Senate committees.

The select committee is aware of the fact that the Subcommittee on Rules of the Senate Committee on Rules and Administration has held extensive hearings on this subject.

Many witnesses appeared before that subcommittee, including Senator BUSH, and we are advised that this committee expects to have a report ready for the opening of the next session of Congress.

It is the firm conviction of the select committee that this is a subject which requires much study before affirmative action is taken on a general change in the rules and procedure of committees and subcommittees of the Senate. However, after hearing the evidence and the testimony presented at the hearing before our committee, we are of the opinion that had certain rules of committee procedure been in effect, much of the criticism against investigative committee hearings would have been avoided. For this reason, we report a separate resolution on the subject of the Bush amendment, to read as follows:

"*Resolved*, That subsection 3 of rule XXV of the Standing Rules of the Senate is amended by adding at the end thereof the following:

"'(c) No witness shall be required to testify before a committee or subcommittee with less than 2 members present, unless the committee or subcommittee by majority vote agrees that 1 member may hold the hearing, or the witness waives any objection to testifying before 1 member.

"'(d) Committee interrogation of witnesses shall be conducted only by members and authorized staff personnel of the committee and no person shall be employed or assigned to investigate activities until approved by the committee.

"'(e) No testimony taken or material presented in an executive session shall be made public, either in whole or in part or by way of summary, unless authorized by majority vote of the committee.

"'(f) Vouchers covering expenditures of any investigating committee shall be accompanied by a statement signed by the chairman that the investigation was duly authorized and conducted under the provisions of this rule.'"

And we recommend that this amendment to the rules be approved by the Senate to be effective January 3, 1955.

VIII

Recommendations of select committee under Senate order pursuant to Senate Resolution 301

For the reasons and on the facts found in this report, the select committee recommends:

1. That on the charges in the category of "Incidents of Contempt of the Senate or a Senatorial Committee," the Senator from Wisconsin, Mr. MCCARTHY, should be censured.

2. That the charges in the category of "Incidents of Encouragement of United States Employees To Violate the Law and Their Oaths of Office or Executive Orders," do not, under all the evidence, justify a resolution of censure.

3. That the charges in the category of "Incidents Involving Receipt or Use of Confidential or Classified or Other Confidential Information From Executive Files," do not, under all the evidence, justify a resolution of censure.

4. That the charges in the category of "Incidents Involving Abuse of Colleagues in the Senate," except as to those dealt with in the first category, do not, under all the evidence, justify a resolution of censure.

5. That on the charges in the category of "Incident Relating to Ralph W. Zwicker, a general officer of the Army of the United States," the Senator from Wisconsin, Mr. MCCARTHY, should be censured.

6. That with reference to the amendment to Senate Resolution 301 offered by the Senator from New Jersey, Mr. SMITH, this report and the recommendations herein be regarded as having met the purposes of said amendment.

7. That with reference to the amendment to Senate Resolution 301 offered by the Senator from Connecticut, Mr. BUSH, that an amendment to the Senate Rules be adopted in accord with the language proposed in part VII of this report.

The chairman of the select committee is authorized in behalf of the committee to present to the Senate appropriate resolutions to give effect to the foregoing recommendations.

JOINT COMMITTEE ON ATOMIC ENERGY

The PRESIDING OFFICER laid before the Senate the following communications:

UNITED STATES SENATE,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, D. C., November 8, 1954.

MR. PRESIDENT: I, ED C. JOHNSON, tender my resignation from the Joint Atomic Energy Committee effective today.

With best personal regards, I am,
Sincerely,

ED. C. JOHNSON.

UNITED STATES SENATE,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, D. C., November 8, 1954.

MR. PRESIDENT: Senator ALBERT GORE, of Tennessee, has been selected to fill the existing vacancy on the Joint Atomic Energy Committee.

With best personal regards, I am,
Sincerely,

LYNDON B. JOHNSON.

The PRESIDING OFFICER. The chair is informed that the Vice President appointed the junior Senator from Tennessee (Mr. GORE) to fill the vacancy on the Joint Committee on Atomic Energy.

FUNERAL EXPENSES OF THE LATE SENATOR MAYBANK, OF SOUTH CAROLINA

Mr. JOHNSTON of South Carolina submitted the following resolution (S. Res. 325), which was considered and unanimously agreed to:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay from the contingent fund of the Senate the actual and necessary expenses incurred by the committee appointed to arrange for and attend the funeral of Hon. BURNET R. MAYBANK, late a Senator from the State of South Carolina, on vouchers approved by the Committee on Rules and Administration.

FUNERAL EXPENSES OF THE LATE SENATOR MCCARRAN, OF NEVADA

Mr. MALONE submitted the following resolution (S. Res. 326), which was considered and unanimously agreed to:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay from the contingent fund of the Senate the actual and necessary expenses incurred by the committee appointed to arrange for and attend the funeral of Hon. PAT MCCARRAN, late a Senator from the State of Nevada, on vouchers approved by the Committee on Rules and Administration.

MATERIAL PRINTED IN THE RECORD

On request, and by unanimous consent, the following material was ordered to be printed in the RECORD, as follows:

By Mr. MCCARTHY:

Booklet entitled "Official Communist Party Line on Senator MCCARTHY."

ADJOURNMENT

Mr. KNOWLAND. Mr. President, as a further mark of respect to the memory of the two departed Senators, the late Senator MCCARRAN and the late Senator MAYBANK, I now move that the Senate stand in adjournment until 10 o'clock tomorrow morning.

The motion was agreed to; and (at 1 o'clock and 20 minutes p. m.) the Senate adjourned until tomorrow, Tuesday, November 9, 1954, at 10 o'clock a. m.

NOMINATIONS

Executive nominations received by the Senate November 8, 1954:

DIPLOMATIC AND FOREIGN SERVICE

The following-named persons, who were appointed during the last recess of the Senate, to the offices indicated:

Norman Armour, of New Jersey, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guatemala.

Gerald A. Drew, of California, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Bolivia.

Robert C. Hill, of New Hampshire, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to El Salvador.

Jack K. McFall, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Finland.

John E. Peurifoy, of South Carolina, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Thailand.

John L. Tappin, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Kingdom of Libya.

Edward T. Wailes, of the District of Columbia, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Union of South Africa.

Robert F. Woodward, of Minnesota, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Costa Rica.

The following-named persons, who were appointed during the last recess of the Senate, to the offices indicated:

Now a Foreign Service officer of class 1 and a secretary in the diplomatic service, to be also a consul general of the United States of America:

Loyd V. Steere, of California.

For promotion from Foreign Service officers of class 2 to class 1:

E. Tomlin Bailey, of New Jersey.
Frederic P. Bartlett, of New York.
Niles W. Bond, of Massachusetts.
Bernard Gufler, of Washington.
James E. Henderson, of California.
Fred W. Jandrey, of Wisconsin.
Brewster H. Morris, of Pennsylvania.
Robert Newbegin, of Massachusetts.

For appointment as Foreign Service officers of class 1, consuls, and secretaries in the diplomatic service of the United States of America:

Graham A. Martin, of Florida.
Benson E. L. Timmons III, of the District of Columbia.

For promotion from Foreign Service officers of class 3 to class 2:

William Belton, of Oregon.
William O. Boswell, of Pennsylvania.
John H. Burns, of Oklahoma.
John B. Holt, of Maine.
Raymond G. Leddy, of New York.
Gardner E. Palmer, of Michigan.
Stuart W. Rockwell, of Pennsylvania.
Roy Richard Rubottom, Jr., of Texas.
Horace G. Torbert, Jr., of Massachusetts.
Gerald Warner, of Massachusetts.
Murat W. Williams, of Virginia.

For reappointment in the Foreign Service as a Foreign Service officer of class 2, a consul, and a secretary in the diplomatic service of the United States of America, in accordance with the provisions of section 520 (a) of the Foreign Service Act of 1946:

John J. Haggerty, of Montana.

For appointment as Foreign Service officers of class 2, consuls, and secretaries in the diplomatic service of the United States of America:

Harlan P. Bramble, of Oregon.
Leo G. Cyr, of Maine.
W. Clyde Dunn, of North Carolina.
Richard B. Freund, of Illinois.
Robert G. Hooker, Jr., of California.
Paul T. Meyer, of New Jersey.
H. Gerald Smith, of Virginia.
Paul R. Sweet, of the District of Columbia.
William C. Trueheart, of Virginia.
Robert E. Ward, Jr., of South Carolina.

Now Foreign Service officers of class 3 and secretaries in the diplomatic service, to be also consuls general of the United States of America:

V. Harwood Blocker, of Texas.
William J. Porter, of Massachusetts.

For promotion from Foreign Service officers of class 4 to class 3:

Robert W. Adams, of Texas.
Milton Barall, of New York.
Charles Philip Clock, of California.
Robert F. Corrigan, of Ohio.
Francis W. Herron, of Iowa.
Alfred le S. Jenkins, of Georgia.
Joseph J. Jova, of New York.
James C. Lobenstine, of Connecticut.
William L. Magistretti, of California.
Oliver M. Marcy, of Massachusetts.
Lee E. Metcalf, of Texas.
Joseph J. Montllor, of New York.
Albert W. Sherer, Jr., of Illinois.
Garrett H. Soulen, of Texas.
Miss Margaret Joy Tibbetts, of Maine.

For appointment as Foreign Service officers of class 3, consuls, and secretaries in the diplomatic service of the United States of America:

Howard P. Backus, of Virginia.
Harry K. Baker, of Maryland.
J. Lawrence Barnard, of the District of Columbia.
Douglas N. Batson, of Mississippi.
Arthur E. Beach, of the District of Columbia.
James H. Boughton, of Connecticut.
John M. Cates, Jr., of California.
Wesley Harris Collins, of Mississippi.
John J. Conroy, of Maryland.
Edwin M. Cronk, of Virginia.
Bainbridge C. Davis, of Maryland.
Ben F. Dixon, of North Carolina.
Louis Mason Drury, of Maryland.
Russell Fessenden, of Virginia.
Edward R. Fried, of Maryland.
James F. Grady, of Massachusetts.
Herbert T. Krueger, of California.
Philip A. Mangano, of Maryland.
Kyle B. Mitchell, Jr., of Alabama.
John Howard Moore, of Illinois.
Denzil L. Page, of California.
Paul G. Sinderson, of Oklahoma.
George O. Spencer, of Maryland.
James W. Swihart, of Massachusetts.
C. Thayer White, of Texas.

For promotion from Foreign Service officers of class 5 to class 4:

William J. Barnsdale, of California.
Roland K. Beyer, of Wisconsin.
Curtis F. Jones, of Maine.
John M. Kavanaugh, of Louisiana.
Thomas H. Murfin, of Washington.
DeWitt L. Stora, of California.
Elmer E. Yelton, of Virginia.

For promotion from Foreign Service officers of class 5 to class 4 and to be also consuls of the United States of America:

Douglass K. Ballentine, of Texas.
Williams Beal, of Massachusetts.
William H. Bruns, of the District of Columbia.
William T. Carpenter, Jr., of the District of Columbia.
Philip H. Chadbourn, Jr., of California.
Arthur D. Foley, of Michigan.
William G. Gibson, of California.
Richard M. Herndon, of Pennsylvania.
Robert B. Hill, of Massachusetts.
Elmer C. Hulen, of Kentucky.
John J. Ingersoll, of Illinois.
Ralph A. Jones, of Pennsylvania.
David J. S. Manbey, of California.
David S. McMorris, of Alabama.
Joseph P. Nagoski, of Tennessee.
Albert V. Nyren, of Massachusetts.
David Post, of Pennsylvania.
Edward P. Prince, of New Hampshire.
Albert W. Stoffel, of New York.
Robert W. Stookey, of Illinois.
Norman E. Warner, of Iowa.
Harry R. Zerbel, of Colorado.

For appointment as Foreign Service officers of class 4, consuls, and secretaries in the diplomatic service of the United States of America:

Harold Aisley, of Maryland.
Laurin B. Askew, of Tennessee.
Warren P. Blumberg, of Maryland.
Tobias J. Boyd, of Pennsylvania.
Delmar R. Carlson, of Colorado.
Raymond Cary, Jr., of Missouri.
Leonard R. Cowles, of Virginia.
Anthony Cuomo, of California.
Francis Dejmal, of Kansas.
Rockwood H. Foster, of the District of Columbia.
Robert H. Harlan, of Illinois.
Grant V. McClanahan, of Missouri.
Delbert D. Mehaffy, of Iowa.
Carvel Painter, of Wisconsin.
William E. Price, of Arkansas.
Joseph B. Tisinger III, of Maryland.
Walter G. Walcavich, of Virginia.

Now a Foreign Service officer of class 5 and a secretary in the diplomatic service, to be also a consul of the United States of America:

Daniel J. Meloy, of Maryland.

For promotion from Foreign Service officers of class 6 to class 5:

Nicholas G. Andrews, of New Jersey.
Michael P. Balla, of Pennsylvania.
Alf E. Bergesen, of New York.
Robert R. Brungart, of Maryland.
Frank N. Burnet, of New York.
Charles T. Butler, Jr., of Indiana.
Thomas A. Cassilly, of Maryland.
William R. Crawford, Jr., of Pennsylvania.
Michael A. Falzone, of New York.
Richard T. Foose, of West Virginia.
Robert M. Forcey, of California.
Richard D. Geppert, of New Jersey.
Pierre R. Graham, of Illinois.
Lindsey Grant, of New York.
William A. Helseth, of Florida.
Harold L. Henrikson, of Missouri.
Benjamin C. Hilliard 3d, of West Virginia.
Borrie I. Hyman, of California.
William M. Kahmann, of Missouri.
Lowell Bruce Laingen, of Minnesota.
Paul Baxter Lanius, Jr., of Colorado.
John C. Leary, of Massachusetts.
Philip M. Lindsay, of California.
Robert J. Martens, of California.
Kenneth W. Martindale, of Illinois.
Edward E. Masters, of Ohio.
Kermit S. Midthun, of Michigan.
Howard F. Newsom, of the District of Columbia.
Harry I. Odell, of New York.
Stephen E. Palmer, Jr., of New York.
Lloyd M. Rives, of New Jersey.
Lucian L. Rocke, Jr., of Florida.
H. Earle Russell, Jr., of Michigan.
Stanley D. Schiff, of New Jersey.
Edwin E. Segall, of Nebraska.
Richard R. Selby, Jr., of New Jersey.
John J. Shea, of New York.
John W. Simms, of Pennsylvania.
Jack M. Smith, Jr., of Georgia.
Sidney V. Suhler, of Texas.
Harold C. Swope, of Missouri.
Robert J. Tepper, of New York.
Calcolm Thompson, of Massachusetts.
Arthur T. Tienken, of New York.
Peter C. Walker, of New York.
John T. Whellock, of Illinois.
Merrill A. White, of Massachusetts.

For appointment as Foreign Service officers of class 5, vice consuls of career, and secretaries in the diplomatic service of the United States of America:

Mrs. Hazel O. Briggs, of Washington.
Miss Eleanor A. Burnett, of Florida.
Albert C. Cizauskas, of New York.
Mansfield L. Hunt, of Maine.
Miss Betty-Jane Jones, of Wisconsin.
Edward P. Noziglia, of New York.
Michael H. Styles, of Virginia.

For appointment as Foreign Service officers of class 6, vice consuls of career, and secretaries in the diplomatic service of the United States of America:

Miss Gloria E. Abiouness, of Virginia.
Harvey J. Feldman, of Illinois.
Robert H. Flenner, of Pennsylvania.
Wilbur W. Hitchcock, of New Jersey.
Wallace F. Holbrook, of Massachusetts.
Jack Liebhof, of New York.
Hugh J. McCall, of New York.
Nicholas V. McCausland, of California.
Leonardo Neher, of Illinois.
Frederick P. Picard III, of Nebraska.

Foreign Service staff officers to be consuls of the United States of America:

William O. Anderson, of Indiana.
Robert W. Caldwell, of North Carolina.
Paul B. Carr, of California.
Justie E. Gist, of Iowa.
William B. Snidow, of Virginia.
Mrs. C. Carey White, of Arizona.

Foreign Service Reserve officers to be consuls of the United States of America:

R. Jack Smith, of Virginia.
Charles S. Whitehouse, of Rhode Island.

DEPARTMENT OF DEFENSE

Carter Lane Burgess, of South Carolina, to be Assistant Secretary of Defense, a position to which he was appointed during the last recess of the Senate.

DEPARTMENT OF THE AIR FORCE

David S. Smith, of Connecticut, to be Assistant Secretary of the Air Force, a position to which he was appointed during the last recess of the Senate.

DEPARTMENT OF THE NAVY

Albert Pratt, of Massachusetts, to be Assistant Secretary of the Navy, a position to which he was appointed during the last recess of the Senate.

DEPARTMENT OF COMMERCE

Philip Alexander Ray, of California, to be General Counsel of the Department of Commerce, to which office he was appointed during the last recess of the Senate.

DEPARTMENT OF AGRICULTURE

Ervin L. Peterson, of Oregon, to be an Assistant Secretary of Agriculture.

FEDERAL MARITIME BOARD

G. Joseph Minetti, of New York, to be a member of the Federal Maritime Board for the remainder of the term expiring June 30, 1958, to which office he was appointed during the last recess of the Senate.

FEDERAL COMMUNICATIONS COMMISSION

George C. McConnaughey, of Ohio, to be a member of the Federal Communications Commission for the unexpired term of 7 years from July 1, 1950, to which office he was appointed during the last recess of the Senate.

COMMODITY CREDIT CORPORATION

Ervin L. Peterson, of Oregon, to be a member of the Board of Directors of the Commodity Credit Corporation.

ATOMIC ENERGY COMMISSION

Willard Frank Libby, of Illinois, to be a member of the Atomic Energy Commission for the remainder of the term of 5 years expiring June 30, 1956, to which office he was appointed during the last recess of the Senate.

John Von Neumann, of New Jersey, to be a member of the Atomic Energy Commission for the term expiring June 30, 1959, to which office he was appointed during the last recess of the Senate.

NATIONAL LABOR RELATIONS BOARD

Theophil Carl Kammholz, of Illinois, to be General Counsel of the National Labor Relations Board for a term 4 years, vice George J. Bott upon the expiration of his term.

EXPORT-IMPORT BANK OF WASHINGTON

The following-named persons, who were appointed during the last recess of the Senate, to the offices indicated:

Glen E. Edgerton, of the District of Columbia, to be President of the Export-Import Bank of Washington.

Lynn U. Stambaugh, of North Dakota, to be First Vice President of the Export-Import Bank of Washington.

Hawthorne Arey, of Nebraska, to be a member of the Board of Directors of the Export-Import Bank of Washington.

Vance Brand, of Ohio, to be a member of the Board of Directors of the Export-Import Bank of Washington.

BUREAU OF LOCOMOTIVE INSPECTION

John A. Hall, of California, to be Director of Locomotive Inspection, to which office he was appointed during the last recess of the Senate.

MISSISSIPPI RIVER COMMISSION

Brig. Gen. William E. Potter (colonel, Corps of Engineers) to be a member of the Mississippi River Commission, under the provisions of section 2 of an act of Congress approved June 28, 1879 (21 Stat. 37; 33 U. S. C. 642), a position to which he was appointed during the last recess of the Senate, vice Brig. Gen. Herbert D. Vogel.

Brig. Gen. Charles G. Holle (brigadier general, U. S. Army) to be a member of the Mississippi River Commission, under the provisions of section 2 of an act of Congress approved June 28, 1879 (21 Stat. 37; 33 U. S. C. 642), a position to which he was appointed during the last recess of the Senate, vice Brig. Gen. Ernest Graves.

NATIONAL SECURITY TRAINING COMMISSION

Albert J. Hayes, of Maryland, to be a member of the National Security Training Commission for the remainder of the term expiring June 19, 1958, to which office he was appointed during the last recess of the Senate.

UNITED STATES CIRCUIT JUDGE

The following-named person to the office indicated, to which office he was appointed during the last recess of the Senate:

Walter M. Bastian, of the District of Columbia, to be United States circuit judge, District of Columbia circuit.

UNITED STATES DISTRICT JUDGE

The following-named person to the office indicated, to which office he was appointed during the last recess of the Senate:

Lamar Cecil, of Texas, to be United States district judge for the eastern district of Texas.

UNITED STATES ATTORNEYS

The following-named persons to the offices indicated, to which they were appointed during the last recess of the Senate:

Phil M. McNagny, Jr., of Indiana, to be United States attorney for the northern district of Indiana.

Leon P. Miller, of West Virginia, to be United States attorney for the Virgin Islands.

John R. Morris, of West Virginia, to be United States attorney for the northern district of West Virginia.

UNITED STATES MARSHALS

The following-named persons to the offices indicated, to which they were appointed during the last recess of the Senate:

Carlton G. Beall, of Maryland, to be United States marshal for the District of Columbia.

Russell R. Bell, of West Virginia, to be United States marshal for the southern district of West Virginia.

M. Frank Reid, of South Carolina, to be United States marshal for the western district of South Carolina.

Irl E. Thomas, of West Virginia, to be United States marshal for the northern district of West Virginia.

COLLECTOR OF CUSTOMS

Walter B. Heisel, of Alaska, to be collector of customs for customs collection district No. 31, with headquarters at Juneau, Alaska, to fill an existing vacancy.

UNITED STATES PUBLIC HEALTH SERVICE

The following candidates for personnel action in the Regular Corps of the Public Health Service:

I. FOR CONFIRMATION OF RECESS APPOINTMENT

To be senior assistant surgeons, effective date indicated

David P. Michener, September 23, 1954.
Earle W. Epps, September 23, 1954.
Eugene H. Guthrie, September 23, 1954.
James R. Harris, September 23, 1954.
William V. Trekell, September 23, 1954.
James L. Wellhouse, September 23, 1954.
Claude R. Garfield, September 24, 1954.
Douglas E. Bragdon, September 24, 1954.
Nicholas Revotskie, September 24, 1954.
Burton M. Cohen, September 24, 1954.
Donald R. Chadwick, September 24, 1954.
Lewis E. Patrie, September 24, 1954.
Edward L. King, September 24, 1954.
Eugene W. Ververka, September 24, 1954.
Harvey P. Wheelwright, September 25, 1954.
Roy P. Sandidge, Jr., September 27, 1954.
Edward F. Gorin, September 27, 1954.
Wallace P. Rowe, September 29, 1954.
Ergi J. Pesiri, September 29, 1954.
Hubert C. Burton, September 29, 1954.
Paul L. Kingsley, November 1, 1954.

To be assistant surgeon, effective date indicated

Adolph F. Friedman, November 2, 1954.

To be senior assistant dental surgeons, effective date indicated

Douglas J. Sanders, September 27, 1954.
Reuben L. Turner, September 28, 1954.
Fogle Godby, September 28, 1954.
Harold M. Fullmer, September 29, 1954.
Bill J. Brady, October 8, 1954.

To be assistant dental surgeons, effective date indicated

John H. Duffy, November 3, 1954.
Lawrence E. Van Kirk, Jr., November 3, 1954.

To be assistant scientists, effective date indicated

Melvin Manis, October 29, 1954.
Seymour Rubenfeld, November 1, 1954.

II. FOR CONFIRMATION OF RECESS PERMANENT PROMOTION

To be permanent medical directors, effective September 27, 1954

George W. Bolin	Randall B. Hass
Edward T. Thompson	Charles G. Spicknall
John E. Dunn, Jr.	Terrence E. Billings
Leo D. O'Kane	James R. Shaw
John A. Lewis, Jr.	James Watt
Jack L. James	Edgar B. Johnwick
Thomas A. Hathcock, Jr.	Francis J. Weber

To be permanent senior assistant surgeons, effective July 1, 1954

Warren J. Boyer, Jr.	Joshua L. Weisbrod
Arden A. Flint, Jr.	William S. Lainhart

To be permanent dental directors, effective September 27, 1954

John A. Hammer	Francis A. Arnold, Jr.
Ray P. Breaux	George E. Waterman

To be permanent senior assistant dental surgeons, effective July 1, 1954

Jack D. Robertson
Herbert Swerdlow

To be permanent sanitary engineer director, effective date indicated

Duncan A. Holaday, September 27, 1954.

To be permanent sanitary engineer, effective date indicated

William B. Schreeder, September 1, 1954.

To be permanent senior assistant sanitary engineers, effective date indicated

Donald J. Nelson, Jr., July 20, 1954.
Herbert H. Rogers, July 20, 1954.
Edwin M. Lamphere, August 30, 1954.

To be permanent scientist director, effective date indicated

Mayhew Derryberry, September 27, 1954.

To be permanent senior assistant sanitarian, effective date indicated

Harold V. Jordan, Jr., August 15, 1954.

To be permanent nurse officers, effective September 27, 1954

Arne B. Beltz
Dorothy E. Reese

To be permanent senior assistant dietitian, effective date indicated

Letitia W. Warnock, September 18, 1954.

IN THE AIR FORCE

The following-named officers for appointment in the Regular Air Force to the grades indicated under the provisions of title V of the Officer Personnel Act of 1947:

To be major generals

Maj. Gen. George Robert Acheson, 335A (brigadier general, Regular Air Force), United States Air Force.

Maj. Gen. Samuel Robert Brentnall, 364A (brigadier general, Regular Air Force), United States Air Force.

Lt. Gen. William Henry Tunner, 374A (brigadier general, Regular Air Force), United States Air Force.

Maj. Gen. William Evens Hall, 460A (brigadier general, Regular Air Force), United States Air Force.

Lt. Gen. Donald Leander Putt, 494A (brigadier general, Regular Air Force), United States Air Force.

Maj. Gen. Norris Brown Harbold, 369A (brigadier general, Regular Air Force), United States Air Force.

Maj. Gen. Albert Boyd, 424A (brigadier general, Regular Air Force), United States Air Force.

Maj. Gen. Manuel Jose Asensio, 324A (brigadier general, Regular Air Force), United States Air Force.

Maj. Gen. John Stewart Mills, 357A (brigadier general, Regular Air Force), United States Air Force.

To be brigadier generals

Brig. Gen. William Tell Hefley, 353A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Howard Graham Bunker, 376A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Frederic Ernst Glantzberg, 405A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Dudley Durward Hale, 431A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Jack Weston Wood, 441A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Harold Huntley Bassett, 445A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Roger James Browne, 449A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Marshall Stanley Roth, 458A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Harlan Clyde Parks, 472A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. George Elston Price, 475A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Floyd Bernard Wood, 500A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Hugh Arthur Parker, 505A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Stuart Phillips Wright, 510A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Richard August Grussendorf, 543A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Thetus Cayce Odom, 554A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Millard Lewis, 561A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Sory Smith, 573A (colonel, Regular Air Force), United States Air Force.

Maj. Gen. Lee Bird Washbourne, 810A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Frederick Jensen Dau, 834A (colonel, Regular Air Force), United States Air Force.

The following-named officers for temporary appointment in the United States Air Force under the provisions of section 515, Officer Personnel Act of 1947:

To be major generals

Brig. Gen. Matthew Kemp Deichelmann, 331A, Regular Air Force.

Brig. Gen. Merrill Davis Burnside, 495A, Regular Air Force.

Brig. Gen. Daniel Francis Callahan, 579A, Regular Air Force.

Brig. Gen. Samuel Russ Harris, Jr., 272A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. John Titcomb Sprague, 300A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Burton Murdock Hovey, 313A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. William Tell Hefley, 353A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Jack Weston Wood, 441A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Harold Huntley Bassett, 445A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Marshall Stanley Roth, 458A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. George Elston Price, 475A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Stuart Phillips Wright, 510A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Frank Arthur Bogart, 585A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Royden Eugene Beebe, Jr., 587A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. John Belvier Ackerman, 610A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. William Henry Powell, Jr., 684A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Frederick Jensen Dau, 834A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Albert Meldrum Kuhfeld, 884A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. Kenneth Paul Bergquist, 1117A (colonel, Regular Air Force), United States Air Force.

Brig. Gen. James Clyde Selser, Jr., 1284A (colonel, Regular Air Force), United States Air Force.

To be brigadier generals

Col. John Colt Baumont Elliott, 271A, Regular Air Force.

Col. Hoyt Leroy Prindle, 334A, Regular Air Force.

Col. Robert Loyal Easton, 368A, Regular Air Force.

Col. Emmett Felix Yost, 389A, Regular Air Force.

Col. Hollingsworth Franklin Gregory, 496A, Regular Air Force.

Col. Tom William Scott, 536A, Regular Air Force.

Col. Harold Lester Smith, 564A, Regular Air Force.

Col. Wendell Washington Bowman, 596A, Regular Air Force.

Col. Milton Frederick Summerfelt, 653A, Regular Air Force.

Col. Charles Hoffman Pottenger, 661A, Regular Air Force.

Col. Clinton William Davies, 778A, Regular Air Force.

Col. John Martin Breit, 1016A, Regular Air Force.

Col. Richard Thomas King, Jr., 1021A, Regular Air Force.

Col. Daniel Edwin Hooks, 1166A, Regular Air Force.

Col. Moody Rudolph Tidwell, Jr., 1553A, Regular Air Force.

Col. Don Davis Flickinger, 19078A, Regular Air Force, Medical.

Col. Benjamin Oliver Davis, Jr., 1206A, Regular Air Force.

Col. Charles Berton Root, 1258A, Regular Air Force.

Col. Victor Raymond Haugen, 1292A, Regular Air Force.

Col. Sam Wilkerson Agee, 1346A, Regular Air Force.

Col. Edwin Borden Broadhurst, 1350A, Regular Air Force.

Col. Kenneth Oliver Sanborn, 1363A, Regular Air Force.

Col. Don Richard Ostrander, 1343A, Regular Air Force.

Col. Fred Murray Dean, 1450A, Regular Air Force.

Col. Walter Erath Arnold, 1478A, Regular Air Force.

Col. Arthur Jenkins Pierce, 1509A, Regular Air Force.

Col. Marcus Fleming Cooper, 1543A, Regular Air Force.

Col. Cecil Hampton Childre, 1551A, Regular Air Force.

Col. Henry Riggs Sullivan, Jr., 1655A, Regular Air Force.

Col. William Emanuel Eubank, Jr., 1741A, Regular Air Force.

Col. Beverly Howard Warren, 1768A, Regular Air Force.

Col. James Franklin Whisenand, 1945A, Regular Air Force.

EXTENSIONS OF REMARKS

Communist Party Line on Senator McCarthy

EXTENSION OF REMARKS
OF
HON. JOSEPH R. McCARTHY
OF WISCONSIN
IN THE SENATE OF THE UNITED STATES
Monday, November 8, 1954

Mr. McCARTHY. Mr. President, I ask unanimous consent to have printed in the RECORD pages 1 to 19 of the booklet I now send to the desk.

There being no objection, the booklet was ordered to be printed in the RECORD, as follows:

"THROW THE BUM OUT"—OFFICIAL COMMUNIST PARTY LINE ON SENATOR McCARTHY

The House Un-American Activities Committee officially cites the Daily Worker as follows:

"Daily Worker: The chief journalistic mouthpiece of the Communist Party * * *. No other paper or publication of any kind in all American history has ever been loaded with such a volume of subversive, seditious, and treasonable utterance as has this organ of the American Communists."

"Telegraph agency of instructions to all Communists." (Louis Budenz, former editor of the Daily Worker.)

[From the Daily Worker, New York, N. Y., of September 28, 1954]

THROW THE BUM OUT

America is catching up with McCARTHY. The six-man Senate committee has voted unanimously in favor of a Senate censure

of the arch-conspirator against the American Constitution.

It is good news for America—for its free speech, its right to speak out for peace, coexistence, and the abolition of H-bomb war—that McCarthyism is no longer the untouchable sacred cow. The good sense of the people has won this important achievement.

However, the GOP, backed in this by the Democratic Party leader in the Senate, is trying to sweep the McCARTHY issue under the rug for the elections. They have ordered the postponement of any Senate action till after the elections. They thus hope to keep the issue quiet.

But the country has seen enough of the sordid McCARTHY conspiracy not to be content with this trick. In the first place, the voters should insist to their Senators on a Senate meeting before the November elections. They should insist on a swift vote of censure before November.

Following that, the country has every right to expect that the Senate will not merely rebuke McCARTHY for overstepping some of the rules, but will waste no time in digging into his whole shabby career.

[From the Daily Worker, New York, N. Y., of July 14, 1954]

AID SENATE FIGHT ON McCARTHY

The effort of Senator RALPH FLANDERS, Republican, of Vermont, to strip Senator JOSEPH McCARTHY, Republican, of Wisconsin, of his committee chairmanships is gaining ground in the United States Senate. Several Republicans have already indicated support. While a number of Democrats are also for it, the Senate Tory Democratic leadership has tried to evade the struggle by maintaining McCARTHY is a "Republican problem."

Among Republicans who have not yet lined up behind the Flanders resolution is Senator IRVING M. IVES, of New York.

We urge all New Yorkers to write to IVES insisting he support the Flanders resolution.

We urge New Yorkers to write to Senator HERBERT LEHMAN suggesting he put the heat on the Democratic Senate leadership to line up behind the resolution.

We urge readers everywhere to take similar action in connection with their Senators.

[From the Daily Worker, New York, N. Y., of July 29, 1954]

WRITE YOUR SENATORS

Tell the two Senators from your State to support the Flanders censure resolution. Urge the organizations to which you belong, to do likewise.

In New York, Senator LEHMAN says he will support the censure; Republican IRVING M. IVES has been silent.

Many are also writing to Senator FLANDERS giving him their support in this move.

[From the Daily Worker, New York, N. Y.]

STILL TIME TO CENSURE

The next few days will tell whether McCARTHY can still blackmail the country. A shower of wires, letters, and calls will go a long way toward giving the Senators an indication of the feelings at home. They should be told no adjournment until Senator McCARTHY is severely censured.

[From the Daily Worker, New York, N. Y., of July 16, 1954]

ACT NOW

We urge all readers to write at once to their Senators, insisting they vote for the Flanders resolution.

We urge all readers to reach their fellow-workers and neighbors and the leaders of the unions and other organizations they might belong to—urging them to take similar action.

They should also make their will known to Senator LYNDON JOHNSON, Democratic Senate leader, who is dodging the issue on the excuse that this is an inner Republican squabble.

[From the Daily Worker, New York, N. Y., of March 17, 1954]

STAMP OUT McCARTHYISM

(By William Z. Foster)

During the past 10 days Senator McCARTHY has received a number of resounding belts in the jaw. These came from Adlai Stevenson, E. R. Murrow, Senator Flanders, the Army leadership, broadcasting companies. Even Eisenhower himself had to give McCARTHY a slap on the wrist. This sudden outburst of anti-McCarthy sentiment reflects the growing indignation of the American people at the outrageous manner in which the Wisconsin political thug has been intimidating the country.

This active anti-McCarthyism is all to the good, and it is to be hoped that the gathering attack against McCARTHY will be developed to the full. McCARTHY should not only be discredited politically, but he should also be fired from the Senate and put in jail where he belongs. Such an outcome would constitute a real victory for democracy and would be hailed as such all over the world.

With McCARTHY discomfited, already social democrats like Max Lerner and Arthur Schlessinger in the New York Post act as if McCarthyism were dead. They make it appear as though McCarthyism is the work of but a few malevolent individuals, who are now being deflated. But this is a gross underestimation of the danger of McCarthyism, which is American fascism.

McCARTHY as an individual reactionary is obviously dangerous, but the reality of the dangers personalized by him are the powerful figures behind him—the wealthy bankers and industrialists and big military tycoons, with their aggressive programs of facism and war. These are the elements who are chiefly responsibile for such power as McCARTHY possesses.

Should their darling McCARTHY be knocked out, however, in the present brawl, they will not be long in developing another political front. If they could so blow up a blockhead like McCARTHY, they will not be long in finding replacements.

It is not enough to fight McCARTHY regarding his methods, on the assumption that he represents only a small clique of irresponsibles. He must instead be fought on the grounds of his pro-Fascist objectives and in the realization that he is the outstanding figure of the American Fascist tendency.

What is wanted is not more carefully managed thought control or more gentlemanly red-baiting and Soviet hating as so many in labor and political circles have been doing. This line only feeds McCarthyism. The whole program of warmongering must be knocked out and the country embarked upon a realistic policy of peaceful coexistence between the United States and the Soviet Union. This alone can basically end the menace of McCarthyism.

The Eisenhower administration is figuring on using what they hope will be a more sensible McCARTHY as their chief hatchetman in the November elections. That is why Vice President NIXON gave him such gentle handling in his Saturday night speech.

McCARTHY will have many other powerful supporters. But the President and his Wall Street backers should not be allowed to get away with this shameful imposition upon the American people. McCARTHY must be driven out of American public life completely. That would be an appetizer to a real head-on attack upon the main body of the threatening Fascist movement in this country.

In the coming November elections the labor and progressive forces should defeat every McCarthyite who appears on any ticket and elect strong anti-McCarthy candidates.

William Foster is under indictment for Communist activities in violation of the Smith Act.

UNITY CAN DEFEAT McCARTHYISM

(By Philip Frankfeld, chairman of the Communist Party of Maryland)

(Pamphlet issued by Communist Party)

From the above pamphlet:

"But at all times, remember the fact that the main enemy is pro-Fascist McCarthyism and all of its workings and directing our main fight against it."

"The camp of McCarthyism remains united and follows a common policy directed by a unified command. It operates with deadly effectiveness."

Philip Frankfeld has been convicted for his Communist activities.

The national secretary of the Communist Party sent the following message to all Communist Party members through the Daily Worker of May 4, 1950:

"I urge all Communist Party members, and all anti-Fascists, to yield second place to none in the fight to rid our country of the Fascist poison of McCarthyism."

[From the Daily Worker, New York, N. Y., of May 7, 1953]

INVESTIGATE THE INVESTIGATORS

We New Yorkers are getting a good close-up look at what Senator HERBERT LEHMAN called the other day "creeping McCarthyism."

We are getting "creeping McCarthyism," and McCarthyite creeps, in the invasion of New York by the shoddy bunch of headline-hunters known as the Un-American Committee. This is headed by an ex-FBI cop whose great specialty was to have been the frameup of Steve Nelson as "an atomic spy" working with a "Scientist X." This shabby frameup—very much like the Rosenberg frameup—collapsed completely when even a fear-ridden Washington jury threw the whole mess out of court several weeks ago.

Velde's qualifications for hounding New York teachers, editors, artists, actors, and writers are given by his notorious contempt for education, which he expressed as follows:

"The basis of all communism and socialistic influence is education of the people. * * * If we say that we are opposed to socialism in America, as we all say we are, then we must oppose this bill (to create traveling libraries)." (March 9, 1950, House of Representatives.)

Such is the gent who now drags decent and patriotic Americans up in front of his roadshow in order to get them to become informers by "naming names" of other Americans who have dared to exercise their rights of free speech, free press, and the right of association to advocate ideas.

No wonder Senator LEHMAN cried out in dismay before 1,000 Democratic Party workers last week:

"Already, we tolerate subpenaing novelists, essayists, magazine and newspaper editors, scholars and school administrators to inquire into their political backgrounds and personal habits back to their youth and childhood.

* * * The investigators, who might better be called the inquisitors, have taken over."

Senator LEHMAN's justified alarm shows that many Americans are aware of the fact that the smokescreen of "probing subversion" covers up a vicious McCarran-McCarthy assault on New Dealers, Democrats, Negro and Jewish organizations, trade unions, churches, etc. The Un-American Committee peddles the big lie about communism in order to attack all progressive ideas.

These committees will never haul up before them a Ku Kluxer, an anti-Semite, a warmonger, or a union hater. No landlord gouging his tenants or politician rooking the city will ever be called up to "name names" by these hacks. After all, their own previous chairman, the smelly J. Parnell Thomas, was found out to be a crook.

It is with pride that New York can watch these courageous "noncooperating" witnesses give these thought-controllers some elementary lessons in American history. George Washington and Jefferson were also "noncooperating" with reference to thought-control tyranny.

[From Political Affairs of December 1953]

UNITY CAN ROUT MCCARTHYISM

(By national committee, Communist Party, United States of America)

On November 21, 1953, the national committee of the Communist Party of the United States issued a statement signed by William Z. Foster, Elizabeth Gurley Flynn, and Pettis Perry, dealing with the Brownell-Eisenhower assault upon the loyalty of ex-President Truman. The text of the statement follows:

"The situation is ripe for organized labor and its allies, by a united smash, to rout the McCarthyite pro-Fascists and warmongers, and to score a great political victory. This opportunity must not be missed. The working masses must not allow themselves to be politically deceived and blinded by the poison gas of the redbaiters, warmongers, and witchhunters.

"An organic part of the fight against McCarthyism is the fight to defend the Communists now being indicted and tried under the Smith, McCarran, and sedition laws, and to free Gene Dennis, Ben Davis, and the many others imprisoned under these laws."

The House Un-American Activities Committee officially cited Political Affairs as "an official Communist Party monthly theoretical organ. * * * A magazine devoted to the theory and practice of Marxist-Leninism."

[From the Daily Worker, New York, N. Y., of March 1, 1954]

DEMANDS GROWING: ACT NOW AGAINST MCCARTHY—ASKS BROWNELL ACT AGAINST "NO. 1 FASCIST"

ATHENS, OHIO, February 28.—Mrs. Agnes E. Meyer, educator and writer, yesterday called Senator JOSEPH R. MCCARTHY our No. 1 fascist, suggested legal action be instituted against him by Attorney General Herbert Brownell, Jr., and called on the President to intervene to protect the honor of the military against MCCARTHY's insults.

"If the President does not," she said, "the safety of every citizen and of our whole Nation will be undermined. For MCCARTHY has devised sinister methods by which force can conquer this country without overt violence."

In a speech before the Ohio chapter of the American Association of University Professors, Mrs. Meyer said, "Brownell would do the Nation a greater service if, instead of prosecuting a dead Communist, he would institute proceedings against MCCARTHY."

Mrs. Meyer, in her own Red-baiting phrase, apparently alluded to a recent speech by Brownell attacking the late Harry Dexter White, New Dealer and former Treasury official.

"There is no doubt all our freedoms today are being threatened," said Mrs. Meyer, whose husband is Eugene Meyer, chairman of the board of the Washington Post. "Our congressional investigators are seeking to curb all expression of opinion. The Nation's entire education system," she charged, "is being subjected to repression and intimidation.

She charged that the uneducated are sitting in judgment on education and educators, and called for a fairminded investigation of your unfairminded investigators.

Mrs. Meyer declared MCCARTHY would surely be thrown out of the Senate if the Republican National Committee disclosed the disgraceful facts about his record.

[From the Daily Worker, New York, N. Y., of March 12, 1954]

EISENHOWER FEELS THE PRESSURE

President Eisenhower said he agrees with Senator FLANDERS a little bit. The Vermont GOP Senator had charged the imitation-Hitler with trying to split the GOP, and capture it.

These are all signs—"straws," the New York Times calls them—that it is no longer tantamount to treason in Washington to criticize the leader of the pro-Fascist conspiracy in the United States. This means that the groundswell of popular patriotic hatred against bullying, lying, Fascist McCarthyism has already made itself very much felt in Washington and in the GOP.

When Adlai Stevenson charged the GOP with being "half MCCARTHY, half Eisenhower" he clearly stung the GOP, which had learned that the brand of Fascist McCarthyism is no longer the pure asset which GOP Chairman Hall proudly called it.

We have seen in America in the past few days such things as the terrific anti-MCCARTHY response to the CBS broadcast by Edward Murrow; the lashing out at MCCARTHY as a Hitler by the railroad brotherhood organ, Labor, etc.

This should be of the greatest encouragement to the patriotic crusade to resist, curb, and destroy this vile Fascist plot to debase America into a new form of Hitlerism at home and Hitlerite war with all the tricks borrowed from the anti-Communist fakeries of the Nazis.

But it is obvious that the trembling criticism of this Fascist conspiracy forced on the White House must be replaced by something far more direct and tougher. MCCARTHY knows that Eisenhower's "feather" criticism cannot stop him. He insolently sneered back at the President's criticism. He charged that all the GOP leaders who fear he is smearing them too heavily with the Fascist brush are "trying to curry favor with the leftwing press." MCCARTHY is here following the Fascist script down to the last letter.

It is good that the GOP is afraid of the McCarthyite label now.

It is up to the country to insist on more from anyone in public life who says he prefers America to Fascist McCarthyism. McCarthyism's financial dealings must be probed by the Senate. His star-chamber hearings and terrorizations must be stopped. Above all the fight has to be waged on the basic issues—peace and East-West trade against his inevitable war; the Bill of Rights against his spy fakeries and witch hunts of Communists; and more New Deal measures against the GOP's creeping socialism line.

[From the Worker, New York, N. Y., of July 25, 1954]

THE DEMOCRATS AND MCCARTHY

Senator FLANDERS, of Vermont, warned the GOP that if it follows the leadership of MCCARTHY it is sunk.

For the country will know how to recognize the guilt of the party which helps MCCARTHY try to Hitlerize the United States of America.

But the Democrats in Washington can't seem to grasp this yet, and they haven't been told in firm language that such is the case.

For example, the three Democrats on the McCarthy committee—SYMINGTON, JACKSON, and MCCLELLAN—who tangled with MCCARTHY during the recent hearings suddenly were afraid to join with GOP Senator POTTER to fire the sneaky ex-FBI Francis Carr.

POTTER was ready to defy MCCARTHY on this issue, but the Democrats began to waver and said this would "let MCCARTHY claim they oppose the investigation of communism."

Amazing how this MCCARTHY trick still has power to drug and paralyze his victims even when they start to fight back.

But the country, we are sure, wants the United States Senate to pass the Flanders motion to censure MCCARTHY on July 30 when his motion comes up.

Millions of voters want MCCARTHY forced to testify under oath on his spy rings, his weird financial deals with the corporations, and his defense of the Nazi murderers of helpless American GI prisoners.

At the very least, they want the Democrats to lead the fight to censure MCCARTHY, the goon who has branded them as responsible for "20 years of treason."

The voters, especially in the trade unions, are telling their United States Senators they want MCCARTHY censured on July 30 as the very first step, and they are telling Senator FLANDERS they approve what he is doing.

[From the Daily Worker, New York, N. Y., of July 19, 1954]

MCCARTHY A WOULD-BE HITLER, SAYS FLANDERS

WASHINGTON, July 18.—Senator RALPH E. FLANDERS (Republican, of Vermont) today charged that Senator JOSEPH R. MCCARTHY was the would-be Hitler of America. Detailing the methods whereby Hitler rose to power in Germany, FLANDERS called on fellow Republicans to back his Tuesday move to censure MCCARTHY. FLANDERS withdrew his original motion to oust MCCARTHY from his chairmanships under pressure from the GOP leadership in the Senate.

In releasing his speech today, FLANDERS said he "took his unusual step" because otherwise there would be no chance for the Senate or the public to consider his arguments against MCCARTHY. He claimed considerable Senate support for his resolution, including more than 12 Republicans.

Senate Republican leader WILLIAM F. KNOWLAND refused to disclose his strategy on the FLANDERS move, but is expected to try to kill the resolution either by moving to table it or by sending it to a Senate rules committee pigeonhole.

Before the resolution itself can be brought to vote, the Senate must approve FLANDERS' request for immediate consideration and it was possible the showdown will come then.

The tactic of comparing with Hitler anyone who fought communism was originated years ago by the Communists. Congressman Dies, Congressman Harold Velde, Senator

McCarran, and Senator Jenner have been similarly attacked by the Communists.

[From the Daily Worker, New York, N. Y.]

STILL TIME TO CENSURE

The decision of the Senate to shift the McCarthy censure motion to a six-member committee raises the serious danger that another whitewash of the reactionary Wisconsin Senator is in the making.

There is still hope, however, that some form of censure is possible this session. The Senators, cognizant of the tremendous popular pressure for some action on MCCARTHY, and hardly willing to face charges at home that the Flanders motion was killed by adjournment, voted to act on the committee's recommendation before the mid-August adjournment.

The committee, which Vice President NIXON will appoint, however, can bring in a recommendation on the eve of adjournment for no action or postponement of action to the next session. Senate Majority Leader KNOWLAND and Minority Leader JOHNSON, who have joined hands on the maneuver to save MCCARTHY, are apparently continuing on a rush-for-home stampede to get approval of what amounts to no action. Whether they will succeed depends in large measure on the response from those who are already being exhorted by electioneering candidates.

The very fact that the Senate was forced to schedule a debate on the Flanders motion and that the leaders of both parties have been unable so far to avoid action this session indicates the tremendous power of the anti-McCarthyism sentiment in the country. The Senate debate, despite the limited scope of the Flanders motion and the rush for adjournment, has served to still further expose the Fascist and corrupt nature of McCarthyism.

Like a cornered beast, MCCARTHY was only able to resort to the usual growl that served him so well in the past. He called the many Senators who voiced charges against him consummate liars and warned them they will indict themselves for perjury if they voice those charges before the Senate's committee.

The Senator's bullying tactics were successful on some occasions against some weak-kneed liberals or others without moral or self-respect, although MCCARTHY has been rebuffed by most honest witnesses. It now remains to be seen whether the whole Senate will be bullied successfully by the junior Senator from Wisconsin.

And we are still to hear from President Eisenhower on this most important question before Congress. The White House has been conspicuously silent while the storm rages and the administration's leaders are steering toward a whitewash of MCCARTHY. The voters will not absolve the administration of its full responsibility in this sordid business.

The next few days will tell whether MCCARTHY can still blackmail the country. A shower of wires, letters, and calls will go a long way toward giving the Senators an indication of the feelings at home. They should be told no adjournment until Senator MCCARTHY is severely censured.

[From Political Affairs of May 1954]

MAY DAY, 1954: WHAT FACES US?

VI. THE ROLE OF THE COMMUNIST PARTY

In the past period the party and the left have played a more active role in the mainstream of the anti-MCCARTHY movement. They are learning to influence the program and to bolster the fighting capacity of the movement as loyal participants in the struggle.

The campaign to build the circulation of the Daily Worker and the Worker and of the Morning Freiheit is an integral part of the fight against McCarthyism. It is an integral part of the effort to strengthen the role of the left in the coalition. The continuous attack by MCCARTHY on the Daily Worker is proof of its vitality in the struggle. The Daily Worker is the best fighter against McCarthyism.

The future struggle will be difficult and sharp. No one can predict its exact course or guarantee its outcome. The situation is fraught with great danger. At the same time, the advance of the anti-MCCARTHY movement beyond expectations of 6 months or a year ago reveals the great opportunities for building a movement which can stop McCarthyism in time.

The House Un-American Activities Committee officially cited Political Affairs as "an official Communist Party monthly theoretical organ * * * a magazine devoted to the theory and practice of Marxist Leninism."

[From the Worker, New York, N. Y. of October 3, 1954]

ACTION NOW URGED ON MCC. CENSURE

[From the Worker, New York, N. Y., of April 4, 1954]

THE BIG LIE TACTIC

What has made MCCARTHY so powerful within the space of 5 years? What has he got? The answer is simple. He has in his hands the power of the big lie. What is that big lie?

The big lie is that the United States of America faces a Communist menace both from the Socialist states, and from the Communist Party here in the United States of America.

The big lie which MCCARTHY rides for all it is worth is that Communists—that is Americans with Marxist ideas on peace, democracy, and socialism—are out to be spies.

Once a country swallows this fake—as Nazi Germany swallowed it—it is sunk. It is ready to be taken over by Fascist conspirators who are laughing up their sleeves at their victims.

There is no such thing as the Communist menace.

This is what every thinking American must retort to the warmongers and hysteria makers who are out to seize control of these United States.

There is such a thing as the social ideas of the Communists.

There is such a thing as the antiwar, antidepression activities of the Socialist-minded men and women who make up the Communist movement.

But there is absolutely no such thing as the conspiracy or the menace of which Fascist McCarthyism shrieks every day.

The Communist menace and the spy menace is a fake.

According to the FBI political boss, J. Edgar Hoover, the Communist conspiracy is out to get the following things:

"Settlement of the Korea war; recall of all American GI's from abroad; a five-power peace pact with China included; resumption of trade with the Communist countries; repeal of Taft-Hartley law, as well as the Smith and McCarran Acts."

Are these things bad for the United States?

No. Millions of Americans already agree with most of them, especially with the ideas of world peace and putting an end to the cold war.

McCarthyite fascism has never exposed a spy, as the conservative columnist, Walter Lipmann, notes. This is because he is not looking for spies at all but for Americans whose ideas are liberal, progressive, or Marxist.

McCarthyism starts with the fraud about the aims of the Communists. Then it moves up and starts lying about Roosevelt and the New Deal. It calls them treason.

McCarthyism calls the organization of the CIO a Communist plot. McCarthyism brands all peace as treason and appeasement. It is ready even to brand the Eisenhowers as traitors if the White House does not succeed in keeping war going in Asia.

The one thing McCarthyism is most afraid of is peace and trade with China and the Soviet Union. But peace means trade and jobs—without slaughter of our boys.

Some people say they oppose McCarthyite methods but favor its goals.

But this is absurd; McCarthyism's goal is police state and war.

Can there be nice methods for getting fascism and war?

McCarthyism's goal is fascism, and so are its methods.

The two cannot be separated.

If the Communists are robbed of their democratic right to advocate their opinions, no one else has any freedom left.

All you have to do to kill an idea—like job protection, or peace—is brand it "Communist." That will finish it, as long as McCarthyite fascism is allowed to get away with its big lie.

Communism is not the issue in the United States. The issue is jobs, peace, and democratic liberty.

Don't be fooled any more by the fake of the Communist menace. The menace is McCarthyite police state and its war conspiracies.

[From the Worker, New York, N. Y., of April 4, 1954]

"INVESTIGATIONS OF SENATORS JOSEPH R. MCCARTHY AND WILLIAM BENTON PURSUANT TO SENATE RESOLUTION 187 AND SENATE RESOLUTION 304

"(Report of the Subcommittee on Privileges and Elections to the Committee on Rules and Administration)

"(U. S. Government Printing Office, Washington, 1952)"

This official Senate report on MCCARTHY's shady finances was submitted in January 1952. Neither the Senate nor the Department of Justice has acted on it. J. Edgar Hoover who was supposed to investigate the charges uncovered by the Senate Committee instead praised MCCARTHY.

UNFIT FOR THE SENATE

Inside: Four full pages on Senator JOE "Low-Blow" MCCARTHY, his record and what you can do about him. See pages 7, 8, 9, and 10.

WHAT YOU CAN DO

Here is what you can do to help America against McCarthyism.

1. Tell your United States Senators that the probe of the Schine-Cohn-McCarthy scandal must be taken out of the MCCARTHY committee's hands. The Senate itself must probe this MCCARTHY scandal.

2. Insist that the United States Senate reopen the probe of MCCARTHY's weird financial deals which he refused to answer when Senator Benton charged him with deceit. Tell this to your Senators.

3. Refuse to let any Red scare tactic rob you of your rights to say what you please about peace, East-West trade, union rights, or any other social issue. Defend the rights of all Americans under the fifth amendment. They are your rights, too.

4. Stand up for the rights of all Americans, Communists as well as non-Communists, to say what they think without fear of punishment for subversion or disloyalty.

5. Urge the abolition of the viciously Un-American Committee on Un-American Activities and all such groups, like the Senate Committee on Internal Security.

6. Urge the repeal of all thought-control laws like the Smith Act, the McCarran Internal Security Act, and the McCarran-Walter Act.

7. Urge the end of the cold war, and its replacement with a policy of peaceful negotiation, East-West trade, and the outlawing of all atomic and H-bomb war.

8. McCarthyism hates peace. Every move to ease world tension is a blow against pro-war McCarthyism. Join with your neighbors in urging a peace policy in Washington, with reduced armaments, lower taxes, more schools, and a real antidepression program.

"McCarthyism has become the new religion of the modern day witch hunters. In their book you have to embrace McCarthyism or stand convicted of treason."—David Herman, president, local, AFL Hotel and Restaurant Workers Union, March 1954.

MCCARTHY, ANTI-NEGRO RACIST

Senator MCCARTHY's anti-Negro bias came out clearly in the disgraceful campaign he organized against Senator Tydings in Maryland in 1950.

At the direction of the MCCARTHY-picked campaign manager 75,000 pamphlets entitled "Back to Good Old Dixie" were distributed in Baltimore. The cover of the pamphlet showed four prominent Negro spokesmen of Baltimore quoting them as supporting MCCARTHY's man against Tydings.

The Senate committee which investigated the Tydings campaign found that the McCarthyites had used the names and pictures of the Negro leaders without their knowledge. In an article by Charles R. Allen, in the Baltimore Afro-American, it is justly said: "Certainly such a device was nothing less than a byproduct of a twisted racist mentality."

The whole nation was shocked by MCCARTHY's persecution of Mrs. Annie Lee Moss which brought about her suspension from her Army job. On Edward R. Murrow's TV program Americans saw how MCCARTHY and his stooge Cohn worked. They tried to destroy this Negro woman by the unsupported use of dirty FBI slander and gossip files and the words of perjured stoolpigeons like Mary Stalcup Markward.

Senator MCCARTHY took special pains to eliminate from every overseas library anything written by Walter White of the National Association for the Advancement of Colored People and any book or publication which in any way supported the doctrine of racial equality.

Among books which MCCARTHY had burned was Gunner Myrdal's scholarly work on the American Negro, An American Dilemma.

The Baltimore Afro-American observed: "As far as Senator JOSEPH MCCARTHY is concerned, all books expose America's racial discrimination can be burned and the sooner the better."

Following MCCARTHY's dastardly attack on Mrs. Eslanda Robeson, the Afro-American wrote:

"The insidious purpose of Senator MCCARTHY's latest junket into the darkened cave of the book-burners is becoming increasingly clear. His aim is to create the impression that authors who dare expose or protest American racial shortcomings are "following the Communist line and therefor what they write must be subversive."

If you wish more information on McCarthyism, or have any opinions you would like to express on this subject, please write to Sunday Worker, 35 East 12th Street, New York City, for the pamphlet, McCarthyism and the Big Lie, by Milton Howard, associate editor. We will be glad to send it to you free.

[From the Worker, New York, N. Y., of April 4, 1954]

UNFIT FOR THE UNITED STATES SENATE

If you are an average American, JOE MCCARTHY is your enemy. The United States Army papers showed that MCCARTHY and his stooge, Roy Cohn, tried to blackmail special privileges for their boy David Schine. The Army papers showed a gang of power-hungry operators using the racket of the Communist menace to gain dictatorial power. They want to command America. Anyone who doesn't obey them will be charged with being a Communist or helping the Communists.

America is waking up to this realization—

McCarthyism is a conspiracy to destroy the Constitution of the United States.

It is conspiracy to destroy democracy and America's chance for peace, under the mask of saving the country from communism.

MCCARTHY is unfit to sit in the United States Senate. The Army exposure in the McCarthy-Schine case proved that. Other vital facts prove it.

For example:

MCCARTHY is violating his oath as a Senator by refusing to answer questions on the following:

How did you bank $172,000 in cash in 4 years when your salary was about $50,000?

MCCARTHY was charged by Senator Benton, of Connecticut, with deceit, trickery, and falsehood—but MCCARTHY refused to answer on the witness stand.

This makes him unfit to sit in the Senate.

MCCARTHY violated his oath when he refused to tell a Senate committee how come he took $10,000 from the Lustron Corp. as a fee when he was on the Banking Committee which was handing out millions of Government money to the bankrupt Lustron Corp. (see p. 2).

MCCARTHY violated his oath when he refused an answer to the Senate committee's question how come an agent of Pepsi-Cola Corp. guaranteed his private loan of $25,000 just when MCCARTHY was acting on sugar quotas that the Pepsi-Cola Corp. was interested in (see p. 2).

MCCARTHY is violating his oath to uphold the United States Constitution by his deliberate plot to destroy the fifth amendment.

The fifth amendment was put into the Constitution by the Founding Fathers to protect the innocent. They did not want America to repeat the crimes of the anti-Catholic Royalist persecution of the 17th century.

In the 17th century, star-chamber inquisitors hunting un-British activities insisted that Englishmen admit that they were Catholics.

If they refused to discuss their religion with the prosecuting witchhunters, their silence proved them guilty.

America wanted to end this tyranny over men's minds.

The fifth amendment gives every American the right to the sacred privacy of his religious or political views.

MCCARTHY wants to destroy the fifth amendment. He says that silence is guilt. Guilt of what? Of having religious, social, or political views different from his own.

MCCARTHY calls all Americans who refuse to surrender to him their constitutional right to political and religious privacy fifth amendment Communists, or spies.

McCarthyism demands conformity to its prowar, labor-hating, anti-Semitic views, and charges all others with treason.

This makes McCarthyism itself treason to the United States.

MCCARTHY's plot against the fifth amendment and our democratic laws makes him unfit for the United States Senate.

PRESS QUOTES

"The Wisconsin Senator has succeeded in creating a situation in which anyone who doesn't like him, anyone who doesn't say what Mr. MCCARTHY wants him to say, anyone who is even mildly liberal, one might almost say anyone who is normally intelligent and can read, is under suspicion." (New York Times, February 1954.)

"Dwight D. Eisenhower still is President under the Constitution but he is not in full command of the Department of the Army today. Control of that vital element of our national defense system has passed in part at least from the White House to the unscrupulous hands of Senator MCCARTHY. No matter what he does, no matter what he says, no matter whom he attacks, the White House apparently will avoid a break with the wild man from Wisconsin." (St. Louis Post-Dispatch, February 1954.)

WHAT IS MCCARTHYISM?

"McCarthyism is the corruption of truth, the abandonment of our historical devotion to fair play. It is the abandonment of the due process of law. It is the use of the big lie and the unfounded accusation against any citizen in the name of Americanism or security. It is the rise to power of the demagog who lives on untruth; it is the spread of fear and the destruction of faith in every level of our society. * * *

"This horrible cancer is eating at the vitals of America and it can destroy the great edifice of freedom." (Harry S. Truman, ex-President of the United States.)

"MCCARTHY is our No. 1 Fascist." (Mrs. Agnes E. Meyer, educator and writer, February 1954.)

"He is a political hoodlum." (Former Assistant Secretary of State Edward W. Barrett.)

"MCCARTHY, if allowed to go unbridled, can also destroy freedom." (Walter White, secretary, NAACP.)

"The efforts of McCarthyites are being made to defame Negro leaders." (Bishop William Walls.)

"A reign of mental terror has been unloosed over our land * * * a whole great political party has been labeled as traitorous. Treason is the ultimate indictment against a man's honor. And the Senator has applied this black term in effect to more than 27 million Americans who voted for the Democratic Presidential candidate in 1952." (Gov. Robert Meyner, of New Jersey, March 1954.)

"His assault on the Army was a supreme test of the ability of men in high office to meet a threat which in other parts of the world has been fatal to liberty itself. They have failed to meet that test. When will the occasion be presented again in terms so plain that virtually the whole people can see it and understand its meaning." (New York Herald Tribune, February 1954.)

"If we love our liberties and if we wish our children to live in a free world, we must repudiate and reject these political monsters and troglodytes who hate progress, who lust for power and trample into the earth individual rights and human dignity." (The Advance, national organ, Amalgamated Clothing Workers of America, CIO.)